UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OHIO

EASTERN DIVISION

ORIGINAL

IRON WORKERS LOCAL UNION NO. 17 INSURANCE FUND AND ITS TRUSTEES, et al.,	)	No. 1:97CV1422
Plaintiffs,	)	VOLUME I
vs.	)	
PHILIP MORRIS, INC., et al.,	)	
Defendants.	)	

Deposition of DONALD WALDRON TREDENNICK, taken at 1299 Ocean Avenue, Santa Monica, California, commencing at 9:50 A.M., Tuesday, January 5, 1999, before Lawrence Schumacher, CSR No. 1464, and Ernest M Sanchez, Jr., CSR No. 7114.

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APPEARANCES OF COUNSEL:

FOR THE PLAINTIFFS:

MILBERG, WEISS, BERSHAD,
HYNES & LERACH
BY: FRANK J. JANECEK, JR., ESQ.
600 West Broadway
Suite 1800
San Diego, California 92101
(619) 231-1058

FOR THE DEFENDANT R.J. REYNOLDS:

JONES, DAY, REAVIS & POGUE
BY: KIM M. RIVERA-SANCHEZ, ESQ.
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
(216) 586-3939

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APPEARANCES OF COUNSEL (CONTINUED):

FOR THE WITNESS:

STERN, NEUBAUER, GREENWALD & PAULEY
BY: DAVID M. STERN, ESQ.
1299 Ocean Avenue
10th Floor
Santa Monica, California 90401
(310) 451-8001

ALSO PRESENT:

CHUCK GOSWITZ, VIDEOGRAPHER

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THE VIDEOGRAPHER: Good morning. We are on the record at 9:50 A.M. on Tuesday, January 5, 1999, for the videotaped deposition of Donald W. Tredennick. We are taping this deposition at 1299 Ocean Avenue, 10th Floor, in Santa Monica, California, on behalf of the plaintiffs in the action entitled "Iron Workers Local Union No. 17 Insurance Fund, et al., versus Philip Morris, Inc., et al.," Case No. 1:97CV1422. My name is Chuck Goswitz. I'm the video production specialist from Interim Court Reporting located at 3530 Wilshire Boulevard, Suite 1700, in Los Angeles, California. This is Tape No. 1 of Volume I.

Would counsel and all present please identify themselves for the record.

MR. JANECEK: Frank Janecek, J A N E C E K, on behalf of plaintiffs.

MS. RIVERA-SANCHEZ: Kim Rivera-Sanchez on behalf of R.J. Reynolds Tobacco Company.

MR. STERN: David Stern on behalf of the witness, Mr. Tredennick.

THE VIDEOGRAPHER: Thank you.

The witness may be sworn in.

(Continued on next page.)

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DONALD WALDRON TREDENNICK,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. JANECEK:

Q. Mr. Tredennick, could you state your full name and spell it for the court reporter?

A. Donald W. -- Donald Waldron Tredennick. D O N A L D W -- W A L D R O N T R E D E N N I C K.

Q. Thank you.

Mr. Tredennick --

Am I getting -- am I pronouncing that correctly?

A. Tredennick, yes.

Q. Tredennick.

Are you on any medications that would prohibit your ability to testify truthfully and accurately today?

A. Possibly. I'm on a medication called Tegretol, which is for a trigeminal neuralgia condition but it's highly unlikely that it would have any effect on me.

Q. Will you be able to tell if

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that's having some sort of effect so you can let us know and we can take a break?

A. Yes, uh-huh.

Q. Is there another reason that you would not be able to testify truthfully and accurately today that you're aware of?

A. Not to my knowledge.

Q. Mr. Tredennick, I wanna go through a couple of the ground rules of the deposition. One is, for the court reporter's sake, try not to answer questions -- or give me the answer to your questions (sic) until after I finish the question and I'll try not to ask a question so that we're talking over each other. It makes it difficult for the court reporter if we're both speaking at once. Also for the court reporter's sake and for the record's sake, if you could limit your responses to "yeses" or "nos" or "I don't knows" rather than "uh-huhs" or "huh-uhs" or shrugs or nods because that's difficult for the court reporter to pick up. So if it's an affirmative answer, then answer "yes" rather than yes rather than an "uh-huh."

Mr. Tredennick, if you need a

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break at any time let me know and we'll -- we'll stop and take a break. If at all -- if you're feeling uncomfortable or anything like that, you need to confer with your counsel, just let us know and we can stop the deposition and -- and give you some time.

Do you understand that you are testifying here under penalty of perjury?

A. Yes.

Q. Do you know what perjury is?

A. It's essentially not telling the truth under oath, and that's -- you know, outside -- you ask me if I'm fine, and I say "yeah." It has to be substantial kind of -- that's my understanding.

Q. Okay. Do you also understand that while this is a deposition, it's in Santa Monica, this deposition may be used at trial in Ohio and that your testimony here is of the same force and effect as if you were testifying in trial back in Akron? Do you understand that?

A. I understand that.

Q. Mr. Tredennick, once the deposition is completed the court reporter

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will put together a -- a booklet, which is called a deposition transcript, and you'll have an opportunity to review that transcript and make any changes that you want, whether it was a transcription error or you've had more time to think and you have a different answer to the question. I do want to caution you, though, that if you do make changes to your testimony, that any counsel can use those changes or -- or -- or explain those changes to the court or to the jury. So that's something that can be commented upon.

Do you understand that?

A. Let me rephrase that. That if -- if I make changes, any counsel can verbally give an explanation of those changes during the trial?

Q. Right. Or note that the changes -- that changes were made, that the earlier answer was this and it was subsequently changed, but can comment on the fact that changes were made.

A. I understand.

MS. RIVERA-SANCHEZ: Frank, can I -- I'm sorry to interrupt you, but since you're

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talking about the transcript, can I just put my objection on the record?

MR. JANECEK: Sure.

MS. RIVERA-SANCHEZ: Pursuant to the Court's December 16th order in this case, plaintiffs can use publicly available documents for which defendants assert a claim of privilege and may conduct a limited examination about those documents. On behalf of Reynolds, reasonable efforts will be made to object to such documents on a document-by-document basis. However, there are a sizable number of these documents, and plaintiffs may not introduce a document in a readily recognizable form.

We object to the use of privileged documents and reserve the right to specifically object to such documents after we've had a reasonable opportunity to review both the deposition transcript and the exhibits. To the extent that we identify additional privileged documents, we reserve the right to have that document and the related portion of the deposition placed under seal as provided in the Court's December 16th

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order.

Thank you.

MR. STERN: By the way, as long as we're -- we're going through this, I just wanna make -- this is David Stern on behalf of the witness.

My understanding of the Court's various orders is that one of those requires that deposing counsel do their best to avoid duplicative questions that were asked in -- in prior depositions. Mr. Tredennick has had his deposition taken twice previously in connection with tobacco product-related litigation, once in the so-called Arch case and once in the FTC case. It is my understanding that Mr. Janecek previously had a copy of the Arch transcript, and at least according to my records on November 20, 1998, I sent to Mr. Janecek by Federal Express a copy of the transcript of Mr. Tredennick's deposition in the FTC lawsuit. I understand that Mr. Janecek did not -- either said he didn't have it or never had a chance to see it. I've given him an additional copy of that transcript, and I would just ask that in terms of safeguarding the -- the witness's time and not prolong

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these proceedings, that there be as little duplication as possible.

Thank you.

MR. JANECEK: One correction. It's not a court order, but we have made representations that we're going to try to minimize any duplicative questions.

MR. STERN: Thank you for your clarification.

BY MR. JANECEK:

Q. Mr. Tredennick, your counsel just represented that you've been deposed in two other actions, two other tobacco actions, one, the Arch case, and one with the Federal Trade Commission.

Is that correct?

A. Yes.

Q. Have you been deposed in any other actions?

A. No.

Q. Have you talked to anyone else about tobacco issues?

A. Yes.

Q. Who else have you talked to regarding tobacco issues?

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A. Let's see, going back about three years, I've talked to -- I'll give you the substance. I won't remember all the names of --

Q. Sure.

A. -- of people involved.

To Larry Light of the Food and Drug Administration. He had somebody with him. I talked to Dick Struggs, I believe his name is, one of the leading lawyers in the Contango case, I believe. And with him was Mike Moore, Attorney General of Mississippi, and two or three lawyers from Ness, Motley law firm. Ness, Motley, et cetera, et cetera, et cetera law firm. I have talked to a private investigator from San Diego. I don't recall in connection -- what the connection was with him. I've talked to -- prior to the FTC deposition I talked to a federal -- FBI investigator and a lawyer from the FTC, or representing the FTC, for some number of hours. I've talked to Ness, Motley and -- well, Mr. Ness and several of his -- several of his staff. I've talked to maybe two or three attorney generals from other states. I

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don't remember their names. They -- they came into a room where I happened to be very briefly, asked a few questions and left. I think that's the substance of it.

Q. Thank you.

Mr. Tredennick, did you review any documents in preparation for your deposition today?

A. No.

Q. Did you -- you didn't take a look at your prior depositions --

A. I did not.

THE REPORTER: Try and let counsel --

THE WITNESS: Excuse me?

THE REPORTER: Would you try and let counsel finish his entire question, please, before you begin your answer.

THE WITNESS: I will.

THE REPORTER: Thank you.

BY MR. JANECEK:

Q. It's very difficult.

Mr. Tredennick, did you speak with anyone about your deposition today prior -- prior to this morning?

A. Yes.

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Q. Who did you speak with?

A. David Stern.

Q. Did you speak with anyone else?

A. Yes. The RJR lawyer.

Q. Ms. Sanchez that's --

A. Yes.

Q. -- sitting here?

A. Yes.

Q. Did you speak with anyone else about your deposition?

A. I mentioned the fact of a deposition to one or two or three friends over the course of the last week or so. Nothing substantive, though. And I spoke to my wife about the deposition.

Q. Mr. Tredennick, did you hire Mr. Stern to represent you?

A. No.

Q. Who hired Mr. Stern to represent you?

A. R.J. Reynolds Tobacco.

Q. And are you paying Mr. Stern's fees?

A. No.

Q. Is RJR paying their fees --

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Mr. Stern's fees?

A. Yes.

Q. Mr. Tredennick, in your prior two depositions they went through your background and your -- your employment history. For brevity sake, to the best of your recollection, are the -- is the information you provided in those two depositions accurate and truthful?

A. Yes.

Q. I do want, for clarification, to just focus on your job responsibilities and title while you were with R.J. Reynolds Tobacco Company.

Can you tell me during what years you were employed by R.J. Reynolds Tobacco Company?

A. Approximately 1972 through the end of -- through part of 1980.

Q. And what was your job title while you were with R.J. Reynolds Tobacco Company?

A. Essentially the Director of Consumer Research.

Q. And that was for the entire period?

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A. Yes.

MR. STERN: Just to interject at this point, this material was gone over extensively during the FTC deposition. I can't give precise page numbers, although you can go through the index and go through it. A good deal of it appears in the early parts of the deposition.

MR. JANECEK: I understand. I just want to make a clear record rather than having people piece together --

MR. STERN: I just didn't wanna go on ad nauseam, that's all.

BY MR. JANECEK:

Q. Now, Mr. Tredennick, while you were employed with R.J. Reynolds Tobacco Company as the Director of Consumer Research you were responsible for the preparation of survey questionnaires?

A. Yes.

Q. And you evaluated advertising and merchandising?

A. Yes.

Q. Were you responsible at all for designing advertising campaigns?

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A. No.

Q. Were there any other broad areas of responsibility as the Director of Consumer Research?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: What's the objection?

MR. STERN: Well, you don't have to worry about the objection. You can -- listen to the question. If you understand it, you can answer it. If you don't understand it, you can ask for clarification.

THE WITNESS: Please clarify.

BY MR. JANECEK:

Q. Okay. In addition to having responsibility for preparation of survey questionnaires and evaluating advertising and merchandising, did you have any other responsibilities as the Director of Consumer Research?

A. Yes.

Q. What other areas of responsibility did you have?

A. They were numerous. I was responsible for a telephone interview center, which actually conducted telephone

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interviews. I was responsible for research relating to special events. I had people responsibilities. I think that covers the main responsibilities.

Q. With respect to the survey questionnaires, would these questionnaires seek information about what a person's first brand was?

A. I don't remember.

Q. Wasn't that usually the second question that would be asked after "are you a smoker?"

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: No.

MS. RIVERA-SANCHEZ: Object to the form.

BY MR. JANECEK:

Q. What would the -- what would the second question be, usually?

A. "What brand do you usually smoke and consider your -- your primary -- your primary brand of cigarette?"

Q. So "your current usual brand?"

A. Yes.

Q. Would -- would you inquire as to whether there was a prior usual brand?

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A. Rare cases. No, rarely would that be done.

Q. So you -- you wouldn't typically try to determine what brand the smoker typically smoked, other than the current brand?

A. Current brand would be the -- would be the most frequent, and in the questionnaire surveys that we designed, would be -- rarely would it go further down than that.

Q. Now, have you ever told someone that one of the questions you would ask in these surveys was what the first usual brand was?

A. I don't recall if I did or not. It -- it -- I don't recall -- over the -- over the past months or so. May have happened in some circumstances, but it was very unusual, that in a -- in a questionnaire, as I understand the meaning of a questionnaire, that would be asked. No.

Q. It was unusual that it would be asked?

A. Very unusual.

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Q. Now, when you say "a questionnaire," is that a written questionnaire?

A. A questionnaire that would be delivered over telephone or in person.

It would be a very unusual question.

Q. Didn't you ask -- or didn't the survey question- -- questioners ask when individuals started smoking?

MR. STERN: Objection. Calls for speculation.

THE WITNESS: I really can't answer that question. Or I don't -- I don't recall -- put it another way: I don't recall that being included in the question in the questionnaires.

BY MR. JANECEK:

Q. How would you get the information for R.J. Reynolds Tobacco Company as to what -- when someone first began to smoke?

A. There were --

Can you rephrase the question?

Q. How would R.J. Reynolds Tobacco Company, at least through the Consumer

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Research department that you were involved in, how did R.J. Reynolds Tobacco Company get information about when people typically began to smoke?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: Through government documents.

BY MR. JANECEK:

Q. And that would be the only source of information?

A. There would be a second source of information.

Q. What would the second source of information be?

A. The second source of information would be a -- a panel of smokers that was primarily used to evaluate new products.

Q. What was this panel of smokers called?

A. Excuse me?

Q. What was the panel of smokers called? Was there a name for that?

A. It was -- yes, there was a name. Best of my recollection, it was called the NFO panel.

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Q. NFO. Do you know what "NFO" stood for?

A. Yes.

Q. What does NFO stand for?

A. National Family Opinion.

Q. Was this information that was purchased by Reynolds?

A. Yes.

Q. Was it your responsibility to purchase this information or someone else's?

A. It was not mine. It was someone else's.

Q. Was that someone else within your department, the Consumer Research department?

A. I don't know for sure, but it -- it probably varied depending on the particular time. At one point it was probably a part of -- part of the marketing research budget, but not a part of my budget.

Q. Mr. Tredennick, do you know why R.J. Reynolds Tobacco Company would not want to know the various brands typically smoked by smokers?

MS. RIVERA-SANCHEZ: Object to the form.

MR. STERN: I also interject as -- as

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calling for speculation.

THE WITNESS: Restate the question for me.

BY MR. JANECEK:

Q. You testified that typically what R.J. Reynolds Tobacco Company wanted to know in these survey questionnaires was the current usual brand.

A. Uh-huh.

Q. Do you know why --

I guess let me rephrase the question.

Was it important for R.J. Reynolds Tobacco Company to know whether an individual smoker had switched brands, so they had a prior usual brand? Was that important information for R.J. Reynolds Tobacco Company?

A. Yes.

Q. Do you know why if that was important information for R.J. Reynolds Tobacco Company, that type of information was not sought through these surveys?

MS. RIVERA-SANCHEZ: Objection.

THE WITNESS: Yes.

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BY MR. JANECEK:

Q. Why wasn't that information sought through the surveys?

A. It wasn't relevant.

Q. Okay, you're confusing me a little bit. Reynolds -- would Reynolds like to know what brands a smoker typically smoked?

MR. STERN: Objection. Ambiguous. You've gotta clarify whether it's now or in the past or what you're talking about.

BY MR. JANECEK:

Q. We're talking about for the life of the smoker, whether a -- an individual smoker starts smoking with Marlboro, switches to Vantage and then goes to Winston.

Would that type of information be important for Reynolds to know?

A. Not to my knowledge.

Q. So whether -- whether an individual smoker switched brands was not information that you were typically looking for as the Director of Consumer Research?

A. Would you express the question in a positive sense? I -- I have trouble knowing whether the answer is "yes" or "no" when you

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use "not."

Q. I don't know that I can express it in a positive sense.

. Reynolds, or at least the surveys, did not inquire as to whether a smoker switched to his current usual brand.

Is that correct?

A. Generally not. Generally did not ask that kind of a question.

Q. That was not the type of information --

A. Right.

Q. -- that you were -- that you were trying to ascertain?

A. Yeah. Correct.

Q. And if I understood you correctly, the reason that that information was not sought was because it wouldn't be relevant?

A. Correct.

Q. Now, when you say it wouldn't be relevant, it wouldn't be relevant to Consumer Research? Can you -- can you elucidate on what you mean by "it wouldn't be relevant"?

A. Yes. The vast majority of

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Consumer Research questionnaires had to do with attitude, current use, receptions of brands, and the record-keeping of tracking a person's use over time of various brands was simply not appropriate to that particular kind of questionnaire.

Q. Mr. Tredennick, do you have an opinion as to when people typically begin to smoke?

MR. STERN: Objection. Lack of foundation.

THE WITNESS: Yes.

BY MR. JANECEK:

Q. Did you have an opinion as to when people usually begin to smoke while you were employed with R.J. Reynolds Tobacco Company?

A. Yes.

MR. STERN: Same objection.

BY MR. JANECEK:

Q. What was the basis for your opinion? When I say "basis," what information did you have available to you that led you to form your opinions as to when someone begins to smoke?

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A. I had essentially two sources of information. One was simple observation. Second was government documents which resulted from some sort of questionnaire research which specifically asked "when did you start smoking?"

Q. Had you ever discussed the issue of when people begin to smoke with anyone at R.J. Reynolds Tobacco Company?

A. Not to my recollection.

Q. You never discussed that with Mr. Christopher?

A. Could you -- yes, I discussed it with Mr. Christopher in context of a -- of answering a specific request for that kind of information.

Q. I think you're talking about the memorandum you wrote to Mr. Christopher.

A. Yes.

Q. Prior to your drafting of the memorandum, had you had any discussions with anyone at R.J. Reynolds Tobacco Company about when people typically begin to smoke?

A. Not to my recollection.

Q. Prior to your writing your

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memorandum, did you have opinions as to when people typically begin to smoke?

A. Yes.

Q. Do you know when you first started forming an opinion as to when people begin to smoke?

A. No.

Q. Do you recall if it was years before writing that 1974 memorandum or during that time frame?

A. Best of my rec- -- recollection, it was years and years before.

Q. Was part of the basis for your opinion your experience as Director of Consumer Resorch -- Research at R.J. Reynolds Tobacco Company?

MS. RIVERA-SANCHEZ: I'm gonna object to the form. It's unclear.

THE WITNESS: Yeah.

Ask it again. Restate it, I guess.

BY MR. JANECEK:

Q. Was part of the basis of your formulation of opinions regarding when people typically begin to smoke the experiences that

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you had with R.J. Reynolds Tobacco Company?

A. Yes.

Q. In fact, it was well-known by those involved in the tobacco industry that people begin to smoke at an early age?

MS. RIVERA-SANCHEZ: Object to the form. It calls for speculation.

THE WITNESS: I can't answer that.

BY MR. JANECEK:

Q. In your opinion, when do people typically begin to smoke?

A. The majority of people begin to smoke in their -- in their teens.

Q. And when you're -- you say "teens," are you talking about younger than 18?

A. No.

Q. Can you tell me approximately how many people or the percentages of people that begin to smoke before they're age 18?

A. No.

Q. Did you know that information at some point in time?

A. Yes.

Q. And just as you're sitting here

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today, you -- you don't know that percentage -- those percentages?

A. Yes.

Q. Mr. Tredennick, with respect to your responsibilities of evaluating advertising, what did this involve? How did you evaluate advertising?

A. There were a number of ways that we -- that we did that.

Do you have any specific -- are you looking for anything specifically that I can address?

Q. No --

A. It could be a three-hour -- you know, it could be a course.

Q. I'm not looking for a course or a three-hour discussion --

A. Good.

Q. -- but the general mechanisms that you would use.

Would you use surveys? What -- how -- what tools would you use to evaluate advertising?

A. One would be sales results. Another -- that would be -- that would be

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volume sales. Another would be face-to-face consumer interviews using actual photograph or representatives of current advertising or -- or proposed advertising.

Another could be surveys of people asking them what advertising they can remember seeing and what it said.

Another could be research using various devices to get a physical response from people: Eye movement, for example, recognition of brand name after very brief exposures. A technique called a focus group session sometimes would be used, where people sat around, like we're doing now, in -- in less rigid form discuss advertising.

I -- I think those would be the major devices.

Q. And -- and of those tools, it sounded like the types of information you would be looking at would be -- I counted three of them, but please correct me if I've -- if I've missed any -- the effect on sales.

Is that correct?

A. Yes.

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Q. Whether people recall or recognize the advertisements?

A. Yes.

Q. And, for lack of a better term, a qualitative -- what they -- whether they liked or didn't like the advertisement?

A. Not so much that as the effect on their ad- -- of that exposure to the advertising to what they knew about the cigarettes or the use of the cigarettes.

Q. Were there other indicators of the effectiveness of advertising other than those three that we just went through?

A. Not that I can recall right now.

MR. JANECEK: Can we go off the record for a second?

THE VIDEOGRAPHER: We're off the record at 10:25.

(Discussion off the record.)

THE VIDEOGRAPHER: And we're back on the record at 10:25 A.M.

MR. JANECEK: I've handed the court reporter three documents which we'll have marked as Tredennick Exhibits 1, 2 and 3.

For the record, the first

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document is a Share Of Smokers By Age Group. It's an annual update of trends and share of smokers by age dated October 30, 1975. The second exhibit is the same type of document, the annual update of trends dated August 12, 1976, and the third document is the same type of document dated October 31, 1977.

(Tredennick Exhibit Nos. 1, 2 and 3 were marked for identification and are annexed hereto.)

MR. STERN: Let me just state something for the record at this point. I notice that Exhibits 1 and 2 indicate Mr. Tredennick as having received a cc, and I can understand why you'd ask him about that. As to Exhibit 3, I obviously have no knowledge as to whether or not he actually received a copy of this or previously saw it. But I do want to indicate I didn't see his name as a cc on that. And while I do not dispute your right to ask him whether he's seen it before, discussed it or reviewed it, I just wanna make it clear that I'm not gonna have him read a lot of documents that he's never seen prior to today and didn't see while he was employed by Reynolds. That

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would be unproductive and -- and time-wasting.

MS. RIVERA-SANCHEZ: Can I start with Exhibit 3? Can I just have a chance to glance at it?

MR. JANECEK: Sure.

MR. STERN: There's no question pending, so you'll wait until Frank asks you questions --

THE WITNESS: Yes (to his counsel).

MR. STERN: -- and then just answer to the best of your ability.

BY MR. JANECEK:

Q. Have you had an opportunity to at least take a look at these type -- these documents?

A. Very, very briefly.

Q. Mr. Tredennick, have you seen these documents or documents similar to them --

Actually, let me try to speed it up.

Documents similar to these, maybe some of these documents were introduced in your prior depositions with at least the Arch

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plaintiffs.

Is that correct?

A. No.

Can I elaborate (to his counsel).

BY MR. JANECEK:

Q. Sure.

MR. STERN: Sure.

THE WITNESS: To make it simple, the first two here, Share Of Smokers By Age Group, on which I was carbon copied, I don't recall these specific documents, and I've only skimmed just the top page. I don't recall those. It's not something that I would've been particularly interested in at the time unless it was -- had to do something with I was working on at the time, which was unlikely. So although these came into my desk, they would be in a pile, that if I happened to be gone or two or three days they would get deep-sixed.

The third one I don't recall at all. Even -- even the format is strange to me.

BY MR. JANECEK:

Q. And maybe I'll need to get back

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into the Arch deposition, but I was just gonna generally ask you, in the Arch deposition you testified that these annual updates of trends were done on a yearly basis.

Do you remember that?

A. Yes.

Q. And that you typically received these annual trends reports.

Do you recall that?

A. Well, I don't -- I'm not sure if these were the annual trend reports.

(Time lapse.)

Yes, okay, these are.

Q. Okay --

A. Yes. And I did receive them. I was on the cc list.

MS. RIVERA-SANCHEZ: I just wanna clarify, you're referring to Exhibits 1 and 2, not 3 --

THE WITNESS: Correct.

MS. RIVERA-SANCHEZ: -- correct?

THE WITNESS: Not this one. This one --

MS. RIVERA-SANCHEZ: Okay. I just wanna --

THE WITNESS: -- I'm not even familiar with the form of this one --

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MS. RIVERA-SANCHEZ: I just wanna --

THE WITNESS: -- and I was carboned, and I don't recall having ever seen it.

BY MR. JANECEK:

Q. But you do recall receiving annual trend reports for your duration as the Director of Consumer --

A. Yes. Yes.

Q. Mr. Tredennick, these annual trend reports or these Share Of Smokers By Age -

Do you have a name for these? What would you call these types of documents?

A. I don't know. I mean, I -- I don't have a name for 'em that I would use, except the title, "Share Of Smokers By Age Group."

Q. Okay. Then we'll -- we'll just talk about them as the "Share Of Smokers By Age Group" documents.

These documents, these annual reports, "Share Of Smokers By Age Group," report on the number of smokers aged 14 and -- 14 to 17.

Is that correct?

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A. I don't know. I haven't read this document.

Q. If you can take a look at Exhibit 1, just to refresh your recollection --

A. Exhibit 1 is -- okay, I see it, uh-huh.

Q. -- the second full paragraph, that begins "Marlboro's traditional source of strength" --

A. Uh-huh.

Q. -- do you see the second sentence in that paragraph?

A. Uh-huh.

Q. Can you just read that second sentence?

A. "Between April, 1974 and April, 1975, Marlboro King showed a five share point loss in the 14 to 17 year old age group and since 1973 Marlboro king's share of market has declined by eight share points in this segment."

Q. Can you take a look at Exhibit 2?

A. Uh-huh.

Q. And if you look at the first full

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paragraph under "Younger Smokers" --

A. Uh-huh. I mean yes.

Q. -- can you just read that first sentence?

A. Yes. "Winston King's share among this 14 to 17 year age group is off two points for the second year in a row. Current share is 9% -- "

MR. STERN: I think he only wanted the first sentence, so you've given him more than he asked for.

BY MR. JANECEK:

Q. Does --

A. Generous.

Excuse me just a minute.

Q. Sure.

(Time lapse)?

A. Okay.

Q. Actually for completeness sake, if you can look at Exhibit 3.

A. Yes. Exhibit 3.

Q. And take a -- or read the first sentence under "Younger Smokers."

A. "Perhaps because of their highly -- their higher susceptibility to fads,

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peer pressure, et cetera, younger (14 to 18) smokers show frequent, short-term changes from one brand to another."

Q. Do at least the sentences you've taken a look at refresh your recollection that the Share Of Smokers By Age Group reports reflected market share of persons younger than 18?

MR. STERN: Hold it.

I'm gonna object. This is basically why there is the best evidence rule. These documents do speak for themselves. You're asking Mr. Tredennick first to read out loud from the documents and then to adopt your characterization of the documents, which I believe is not only time-wasting, but evidentially impermissible. If you're trying to lay a foundation for something, let's get there. If you're just asking him to agree to your summary of the documents based upon his having read out loud a sentence or two from each of them, I'm gonna object to that, and I'm not gonna permit the witness to go into that area.

MR. JANECEK: All I'm doing is trying to

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refresh his recollection. It says on the document 14 to 18 years old, and I'm asking Mr. Tredennick if what he's read refreshes his recollection if these reports included information on persons younger than 18.

MR. STERN: But that's not what -- that's not the way you refresh somebody's recollection. You just ask him to read that and then agree with your characterization. If you're trying to refresh his recollection about something other than the context of these reports, that's a different issue, but there's no point to having him refresh his recollection about what documents say since the documents can be introduced presumably into evidence.

This is really a waste of time. I'll let you go for a few more questions, but then I'm gonna cut it off.

BY MR. JANECEK:

Q. Mr. Tredennick, having reviewed at least those sentences, do you now recall that these reports included information on persons younger than 18?

A. Still I'm not sure how to answer

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the question. On -- on the documents, in the one I saw here, there's a table in the back, and it shows "Total Younger Smokers," 14 to 17. So obviously it does include that. It doesn't in any way refresh my memory about what happened or why or getting the documents or in any way refresh something that I don't -- that I can't tell you right from the document.

Q. For -- for clarification of the record, the table you're referring to is on Exhibit 1.

Is that correct?

A. Exhibit 1? Yes.

Q. So as you are sitting here today, you don't have any current recollection that these reports discussed smoking by persons younger than 18?

A. No.

Q. Do you have any basis to believe that these annual reports did not include information on persons younger than 18?

A. Not these particular -- any documents or any information that came from the NFO panel --

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MR. STERN: Hold on. You're going off in a different direction. Listen to his question and if you understand, answer it, but don't rephrase it. Just -- let's -- let's have the reporter read back the question, listen to it carefully, answer it the best you can.

(The last question was read by the reporter as follows:

"Q. Do you have any basis to believe that these annual reports did not include information on persons younger than 18?")

THE WITNESS: No.

MS. RIVERA-SANCHEZ: Just for clarification, you're referring to just Exhibits 1 and 2.

Correct?

MR. JANECEK: No. You -- you can re-cross -- cross when I get done, but --

MS. RIVERA-SANCHEZ: Okay.

BY MR. JANECEK:

Q. Mr. Tredennick, I'm going to have the court reporter mark as Exhibit 4 to your

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deposition the July 3, 19 1974 memorandum you wrote to Mr. F.H. Christopher, Jr.

(Tredennick Exhibit No. 4 was marked for identification and is annexed hereto.)

MR. STERN: What's the date on that again, Frank?

MR. JANECEK: July 3, 1974.

MR. STERN: Thank you.

THE WITNESS: I think before we get into this particular one could we have a short restroom break?

BY MR. JANECEK:

Q. Sure.

THE VIDEOGRAPHER: We're off the record at 10:40 A.M..

(Recess taken.)

THE VIDEOGRAPHER: And we're back on the record at 10:48 A.M.

BY MR. JANECEK:

Q. Mr. Tredennick, before we move on to your memorandum, I did have one additional question on the annual -- or the share of smoker reports.

Do you recall testifying in Arch

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that there were two purposes for the information that was contained in those reports, those being forecasting, knowing how many smokers were coming into the market, and if there was a shift in purpose, that being to -- to market to persons younger than 18, that type of information would be useful?

A. Not really, no.

Q. Okay --

A. I don't recall that specifically.

Q. On Page 119 of your deposition in Arch, the question posed by counsel for RJR was, quote:

"All right. Beyond forecasting purposes, knowing how many smokers were coming into the market and what the brand share would be, of what use to Reynolds was that data, if any?"

"A. It would be very useful information in terms of strategic planning, but only if there were -- only if there was a shift in intent would be my

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judgment."

Do you recall that question and answer?

A. Yes.

Q. Have you, prior to today, seen any information that leads you to believe there was a shift in intent at R.J. Reynolds that would make this type of information useful to marketing to people younger than 18?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: Not that I can recall, no.

BY MR. JANECEK:

Q. Mr. Tredennick, you prepared the memo that's marked as Exhibit 4.

Is that correct?

A. The -- the Christopher memo?

Q. Yes.

A. Yes.

Q. Who asked you to prepare this memo?

A. Mr. Christopher.

Q. Do you know who asked him to prepare this memo?

A. To the best of my knowledge, it was -- came down from Bill Hobbs, who was the

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president of RJR Tobacco.

Q. And didn't the -- didn't Mr. Paul Stitcht or Stitch, S T I T C H, ask Mr. Hobbs for this information?

A. As best I can recall, he did.

MS. RIVERA-SANCHEZ: Object to the form.

BY MR. JANECEK:

Q. Could you repeat your answer?

A. Yes, I -- to the best of my recollection, Mr. Stitch asked the question that I ended up answering.

Q. And that question was "what causes smokers to select their first brand of cigarette?"

A. The -- no. The -- the answer (sic), I believe, was "why do people start smoking, and what influences their selection of a first brand?"

THE REPORTER: Frank, the other reporter is here to relieve me. Could we take a few minutes?

MR. JANECEK: Sure. Take a break and switch reporters.

THE WITNESS: Okay.

THE VIDEOGRAPHER: Okay. We're off the

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record at 10:52 A.M.

(Recess taken.)

(At this point, Lawrence Schumacher, CSR No. 1464, was relieved by Ernest M Sanchez, Jr., CSR No. 7114, who reported the remainder of the proceedings.)

VIDEO OPERATOR: We are back on the record at 11:06 A.M.

MR. JANECEK: For the record, we have just had a substitution of court reporters. The first court reporter went home ill.

BY MR. JANACEK:

Q. Mr. Tredennick, unfortunately, we kind of broke our chain of thought but we hadn't gotten started too much so bear with me as I ask the first couple of questions over again to just make sure I've got them asked.

I believe you testified that the CEO of RJR Industries, Mr. Paul Stitch, S T I T C H, had asked Mr. Hobbs for the information that's ultimately contained in your memo; is that correct?

A. That's the best of my recollection.

Q. Do you know why Mr. Stitch asked for

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this information?

A. No.

MS. RIVERA-SANCHEZ: Objection, calls for speculation.

BY MR. JANECEK:

Q. Can you repeat your answer?

A. "No."

Q. Now, Mr. Stitch was a tobacco man, but had been hired from the outside to take over RJR Industries; is that correct?

MS. RIVERA-SANCHEZ: Objection to form.

THE WITNESS: Yes.

BY MR. JANECEK:

Q. Can you repeat your answer?

A. "Yes."

Q. So he did not have the institutional knowledge of someone that had been working in tobacco for many years?

MS. RIVERA-SANCHEZ: Object. Calls for speculation.

THE WITNESS: I don't know.

BY MR. JANECEK:

Q. You were surprised when you ultimately got the request from Mr. Christopher to, or Mr. Hudnell to prepare this memo, weren't

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you?

A. No.

Q. You weren't surprised?

A. I was not surprised.

Q. Why weren't you surprised?

A. I can't answer that question.

Q. Do you ever recall telling any individual that you were surprised when the request filtered down for you to prepare that memo?

A. No. No. Did not tell anybody that.

Q. You might -- do you recall earlier when you testified that you had spoken with an investigator associated with the case?

A. Yes.

Q. Do you recall telling him that you were surprised when the request came to you to prepare this memo?

A. I definitely recall not telling him that.

Q. How come you're so sure that you weren't surprised by that request?

A. I don't know.

Q. You're just positive that you were expecting that type of request from the new

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management?

MS. RIVERA-SANCHEZ: Object to the form. Mischaracterizes his testimony.

THE WITNESS: I can't answer that either.

BY MR. JANECEK:

Q. Do you know why you were the person that was designated to prepare this memo?

A. Not with a hundred percent surety, no.

Q. Why do you believe you were asked to prepare this memo?

A. There were two or three reasons: One, my position; second, of a group of people in marketing research, I was a good writer; and, third, I was in a position where I was able to take time from other things in order to, in order to develop and prepare a document such as this.

Q. So essentially it was within your area of expertise and you had the time and the ability to prepare this type of memo that you believe you were asked to do this project?

A. No.

Q. Well, why wouldn't this project have been given to someone in sales, or your department was the appropriate place for this type of

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information to be sent down in memo form; correct?

A. Yes.

Q. You just happened to be the person that had the free time, I suppose, for lack of a better word.

A. No.

Q. Well, what else, what beyond your --

A. I think there were three factors: One, I could be, I could take time from other duties; second, I had writing skills to do it; third, my general area of expertise gave me access to whatever information was available.

Q. Mr. Tredennick, you've testified quite a bit about this memorandum so I'm not going to go through, you know, each page, but there are a couple of --

A. Bravo! Bravo!

Q. -- there are a couple of points I'd like to explore.

What did you conclude was the reason people, beginning smokers, typically selected their first brand?

A. Do you want me to --

Q. If you want to take a minute to read

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through this to refresh your recollection.

A. -- read this?

MR. STERN: Well, before we have him do that, the question I want to, I have is if you want him to simply reiterate what's in that memo, I think we could spend our time better. This, after all, was written a quarter of a century ago. And if all he is going to do is read the memo and then regurgitate it, I'm not sure that we're spending everyone's time productively, you know. If you want to go outside of the memo, if you want to ask him whether he has any recollections beyond it, I'm certainly not going to stop you, but I question whether or not it makes sense to have him sit down and read this memo 25 years later, you know.

Take however long it takes. 15 minutes, 30 minutes to do that, and then come back and answer questions about the memo. I'm just not sure where that gets us. It's your deposition. I'm not going -- I'm obviously not going to interfere with it, but I'm just questioning the utility of such an approach so tell us what you want us to do.

BY MR. JANECEK:

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Q. Let me try it this way and see if it will speed it up for your counsel.

Didn't you conclude that advertising and imagery was an important factor in a person's decision to smoke?

A. Yes.

MS. RIVERA-SANCHEZ: Objection to the form.

BY MR. JANECEK:

Q. Can you repeat your answer?

A. "Yes."

Q. Didn't --

A. Since we've paused there for a minute, would you repeat that question. I might not have answered it accurately.

Q. Didn't you conclude that advertising and imagery was an important factor in a person's decision to smoke?

MS. RIVERA-SANCHEZ: Objection to form.

THE WITNESS: I did. The answer is no.

BY MR. JANECEK:

Q. You did not conclude that?

A. I did not conclude that.

Q. How do imagery and advertising fit into a person's decision to smoke?

A. Primarily, the decision as to a first

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brand.

Q. So advertising and imagery is important as to which brand is selected?

A. Yes.

Q. Selected by a new smoker?

A. Yes.

Q. Didn't you conclude that some of the reasons someone begins to smoke include conformance, support, to gain confidence?

A. Are you reading from --

Q. I'm not reading, I'm just summarizing the -- I want to get through just the reasons that you ultimately concluded why people begin to smoke and why they select a first brand.

A. Well, my problem is it's in the document and --

Q. If you want to refer to Page 2 --

A. I just don't recall exactly, you know. I haven't read this document in quite a while.

Q. If it helps you, you are more than willing -- I was looking at Page 2 under the initial reasons for smoking.

MR. STERN: You know, the line of questioning is -- there is a fundamental problem

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here. You're allowed to ask him whether or not this was an accurate report at the time and reflect his conclusions. That's perfectly appropriate. You're allowed to ask him whether he has conclusions that are independent of that report.

I don't think that it is appropriate or permissible to ask him to read something or refer him to something in the document saying "isn't it true that" as if you somehow now are getting it additionally.

Again, I'm not -- it's your deposition. Run it the way you want. But I don't think you're getting even close to admissible evidence if all you're going to do is ask him to review a document he wrote 25 years ago and tell you whether it says that. That's the problem here and, you know -- again, it's -- you know, it may not make any difference to me or my client, but it seems like the wrong way to go.

BY MR. JANECEK:

Q. If you want to take a look at Page 2, you're more than willing. I'm just trying to get the general parameters of what it is.

MR. STERN: I'm going to actually instruct

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my witness to please turn the document over. If you want to refer him to a specific section of the document and ask him about those, I'm going to allow him to do it, but I am not going to allow you to simply say "isn't it true that," and "why don't you take a look at Page 2 and agree with me." That's not going to happen so I'm going to ask the witness to please turn the document over save and accept as it may be, you may ask him specifically to refer to something, which I'll allow him to do -- or I'll allow you to do.

BY MR. JANECEK:

Q. Take a look at Page 2 of your memo, Mr. Tredennick.

MR. STERN: Go right ahead.

THE WITNESS: Can I -- could we take a minute? I want to talk to David.

MR. STERN: Okay.

MR. JANECEK: Sure.

VIDEO OPERATOR: Off the record at 11:16 A.M.

(Discussion off the record.)

VIDEO OPERATOR: We're back on the record at 11:17 A.M.

BY MR. JANECEK:

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Q. Mr. Tredennick, you just stepped outside and had a discussion with Mr. Stern and Ms. Sanchez and yourself; is that correct?

A. Yes.

Q. Can you tell me what you said? What did you discuss?

A. We discussed how we should respond to his directions to do one thing and your immediate request that I do something else.

Q. What were you told?

A. Go ahead and do whatever you requested.

Q. If you can turn to Page 2, if you could just skim the paragraph under initial reasons for smoking.

A. Uh-huh. Okay.

Q. Now, does this summarize your conclusions that you reached when you wrote this memorandum with respect to the factors that go into a person's decision?

A. Yes. Yes.

Q. Now, did you read the portion or the factor or to satisfy a quote, "habit,"" close quote, which is developed from occasional smoking?

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MS. RIVERA-SANCHEZ: Where are you looking?

MR. JANECEK: Last sentence in that section.

MS. RIVERA-SANCHEZ: Thank you.

THE WITNESS: Yes. I didn't read that. Now, let me read this paragraph again if you'd like me to.

MR. JANECEK: Sure.

MR. STERN: You don't have to read it out loud. You can just read it to yourself.

THE WITNESS: Yeah. Yes.

BY MR. JANECEK:

Q. Why did you put the word "habit" in quotes?

A. I was directed to by Mr. Hudnell.

Q. Did he tell you why he wanted you to put them in quotes?

A. Yes.

Q. Why did he tell you he wanted those in quotes?

A. He thought that the parentheses would indicate that they -- that the quote "habit" there is used in a way which does not reflect any sort of an addiction or addictive property of cigarettes.

Q. But you believed that cigarettes were

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addicting, that's why you wrote it the way you wrote it originally?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: That is incorrect.

BY MR. JANECEK:

Q. Incorrect.

Do you currently believe that cigarettes are addicting?

A. No.

Q. Were you ever a smoker?

A. No. Although I -- well, let me rephrase that. Ask the question again and define "smoking."

Q. Were you a smoker?

A. Yes.

Q. And at some point in time you quit?

A. No.

Q. You weren't a routine, you were not a regular smoker?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: Can't answer that.

BY MR. JANECEK:

Q. Can you tell me what you mean by your definition of smoker?

A. Yes.

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Q. What did you mean?

A. I, for a period of time, would use cigarettes and puff on them, but I did not inhale cigarettes. Also, for a much longer period of time, smoked either a pipe or cigars, occasionally.

Q. Since you didn't inhale, you weren't -- you didn't consider yourself a regular smoker?

A. No. I considered -- no.

Q. Do you know anyone that has not been able to quit smoking?

A. No.

Q. Do you know anyone that smokes?

A. Not that I can think of right now, although I'm sure I know people that smoke, but I just can't think of who that I was associated with or that I'm, that I know regularly, that I know on an everyday basis.

Q. Mr. Tredennick, while you were the director of consumer research, were you aware that Marlboro's -- Marlboro's market share was increasing while the Reynolds' brand, Winston-Salem, were decreasing?

A. Yes.

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MS. RIVERA-SANCHEZ: Object to the form. No foundation.

BY MR. JANECEK:

Q. Could you repeat the answer?

A. "Yes."

Q. And do you know why Marlboro's share was increasing while the Reynolds brands, Winston-Salem, were decreasing?

MS. RIVERA-SANCHEZ: Same objection.

MR. STERN: I would also object on speculation.

THE WITNESS: No.

Q. It's just a "do you know." He can't speculate whether he does or doesn't know.

MR. STERN: That's true.

THE WITNESS: The answer is no.

BY MR. JANECEK:

Q. But it was generally known at R.J. Reynolds Tobacco Company, that Marlboro was overtaking Reynolds as the number one cigarette?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: Yes.

BY MR. JANECEK:

Q. Repeat the answer.

A. Yes.

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MR. JANECEK: I have this document, which is an April 12, 1973 memorandum produced by RJR as noted on the Bates number as Plaintiffs' or Tredennick Exhibit No. 5.

(Tredennick Exhibit No. 5 was marked for identification and is annexed hereto.)

BY MR. JANECEK:

Q. Mr. Tredennick, if you could just take a quick look and see if this is a document you recognize.

A. Your question is without reading the whole thing?

Q. Do you recognize that document?

A. I do not.

Q. You don't think you've seen that before?

A. Not that I can recall.

Q. Do you recall any meetings between cigarette product formulation and cigarette marketing in Winston-Salem in April 1973?

A. I'm not sure. There were meetings of a general nature like that, one or two, but I'm not sure -- you used very specific organizations, and I'm not sure about those organizations.

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Q. If you can take a look at just the first sentence and read that to yourself, that's -- I'm just trying to find out if you were present or knew about these meetings.

A. I don't know.

Q. Is it a fair assessment that the reason that Marlboro was gaining market share and Winston was losing market share, that Marlboro was more effective at reaching persons younger than 18?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: Be more specific of the question.

BY MR. JANECEK:

Q. Isn't the reason that Marlboro was overtaking Winston, that Marlboro had a large younger-than-18 market share?

MS. RIVERA-SANCHEZ: Object. No foundation.

THE WITNESS: I really can't answer it.

BY MR. JANECEK:

Q. You testified that you received those share of smoker reports; correct?

A. The NFO, you are talking about?

Q. The first three.

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A. Yes.

Q. Those exhibits, the annual reports that we discussed.

A. Yes. I was carboned on them.

MR. STERN: Actually, just for clarity, I think he testified he received the first two. The third one he had never seen.

MR. JANECEK: Didn't recall ever seeing.

MR. STERN: That's right.

BY MR. JANECEK:

Q. But you routinely received those types of reports, the annual share of smoker reports?

A. By "received," I was carboned on them. They came into my office. Whether I read them or paid any attention to them, probably not.

Q. You may have read some and you may not have read others?

A. Certainly not very many of them because this is kind of data which doesn't change over a long period of time.

Q. Do you recall either in those reports or from other sources that Marlboro was gaining share in the 14- to 18-year-old market during the 1970's?

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MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: I don't recall taking particular note of that back in the early seventies. During the past three or four years, that information has been highlighted to me a number of times.

BY MR. JANECEK:

Q. So you currently have at least some understanding that Marlboro may have been gaining share in the 14- to 18-year-old market?

A. Yes.

Q. During --

A. Although I've seen, in the process of talking to investigators or in depositions, I've seen information which suggests that it was the other way around.

Q. That Reynolds was gaining share in the underage market or the under-18 market?

A. Yes.

Q. Mr. Tredennick, if I can have you read, take a look at Paragraph 1 and the last sentence.

MR. STERN: You're referring to the first page of Exhibit 5, the paragraph that begins literally with the number 1.

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MR. JANECEK: Correct.

MR. STERN: Should he just read that paragraph?

BY MR. JANECEK:

Q. If you want to. For the sake of time, I want you to focus on the last sentence that starts with "in my opinion."

A. Okay. The last couple of sentences.

"In my opinion some way must be found to sharpen and reverse the present market share trend on Winston versus Marlboro if Reynolds is to retain its preeminent position in the cigarette field. It was said that young smokers are smoking Marlboros two to one over Winstons. This is an alarming statistic for Winston."

Q. Based on your experience at R.J. Reynolds Tobacco Company, why would it be an alarming statistic for young smokers to smoke Marlboro twice as much as Winston?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: I don't know.

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BY MR. JANECEK:

Q. You have no --

A. I have no idea why that would be alarming.

Q. Have you heard the concept of brand loyalty?

A. Yes.

Q. What is brand loyalty?

A. I don't know what brand loyalty is. It's a vague -- I'll add it's a very abstract concept.

Q. Isn't brand loyalty the concept that it is, that people, that smokers very rarely switch brands?

MS. RIVERA-SANCHEZ: Object to the form.

MR. STERN: Object. Argumentative.

THE WITNESS: I don't know.

BY MR. JANECEK:

Q. Now, we earlier discussed that advertising and imagery was an important factor in a new smoker's decision to select a brand; correct?

A. I don't recall us discussing it.

Q. Isn't advertising and imagery an important factor in a new smoker's decision to

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select a first brand?

A. I don't believe so.

MS. RIVERA-SANCHEZ: Objection.

BY MR. JANECEK:

Q. Mr. Tredennick, if you could look at your memorandum that's Exhibit 4.

A. Uh-huh.

Q. On Page 5.

MR. STERN: You're on Page 6.

THE WITNESS: Page 6.

MS. RIVERA-SANCHEZ: Page 6.

MR. STERN: No. Page 5.

MR. JANECEK: Page 5.

MR. STERN: That is Page 4. Let's check in between here.

THE WITNESS: Okay.

BY MR. JANECEK:

Q. And just to speed it up, I'll read the sentence I'm focusing on -- and you can take a look at whatever you need to -- under the reasons for selecting a first usual brand.

A. Uh-huh.

Q. Your memorandum states:

"The more closely a brand meets the psychological

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support needs" --

Do you see that?

A. Uh-huh.

Q. "Support needs (advertising or otherwise) communicated brand or user image and the physiological needs, (product characteristics), the more likely it is that a given brand will be selected."

Didn't you conclude that advertising was an important factor in the selection of a first brand?

A. Yes, uh-huh.

Let me add -- the reason I'm confused on that is before we were talking about as a reason to started smoking where I said no, imagery is not important, but it is very important in the selection of a brand often through, through the peer construct.

Q. The idea that if your friends are smoking Marlboros or Camels or Winstons, then you were more likely to smoke those cigarettes?

A. Uh-huh.

Q. The idea is that a peer group or your

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friends use their cigarettes as a badge.

A. Yeah. And my more complete thought was that in a peer group somebody in that peer group tends to be a leader and that leaders, that leader is often influenced by the kind of image that's portrayed by a cigarette.

Q. Now, you weren't the only one at Reynolds that thought advertising was important in brand selection, were you?

MS. RIVERA-SANCHEZ: Objection. It calls for speculation.

THE WITNESS: I don't know.

BY MR. JANECEK:

Q. This was something that was accepted by others in the marketing departments of Reynolds?

MS. RIVERA-SANCHEZ: Objection. Calls for speculation.

THE WITNESS: The concept of imagery being very important was generally accepted at some time. Whether it was at this time or not, I am not sure.

BY MR. JANECEK:

Q. Mr. Tredennick, if you take a look at Exhibit 5.

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A. Exhibit 5?

Q. That memo there --

A. Uh-huh.

Q. -- on Page 4.

A. We're sharing. If I can find Page 4 all by myself. There we go. Uh-huh.

Q. And at the bottom of the paragraph, Paragraph 3 and then its (a).

A. Yes.

Q. Just take a look at that paragraph. I don't need you to read it out loud.

A. "The Reynolds" --

MR. STERN: No, no. He doesn't need you to read it out loud.

THE WITNESS: Oh, okay.

BY MR. JANECEK:

Q. Is that idea, the concept that they put down in Paragraph 3, is that consistent with what you were saying; correct?

MS. RIVERA-SANCHEZ: I'm going to object to, again to this whole procedure of having him look at documents that he says he doesn't remember seeing and then asking him to agree whether or not what someone else might have written in a document that he hasn't seen is accurate.

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MR. JANECEK: That wasn't my question.

Q. That, what the marketing group feels, what this author reported the marketing group feels is consistent with the conclusions you reached in your 1974 memorandum.

A. You're going to have to rephrase the question some way I can answer yes or no. I would have to give you a really a "yeah but" kind of sort of thing.

Q. That the -- that advertising and imagery is an important factor in selection of a first brand?

A. Yes, that's true.

Q. That's consistent, what the marketing group believes is consistent with what you concluded about the importance of advertising and imagery with respect to brand selection?

MS. RIVERA-SANCHEZ: Objection. Calls for him to speculate about what the marketing group believed.

MR. STERN: I'll --

THE WITNESS: Well, I think I can answer to some extent. My recollection is that imagery was an important part of the dynamics of brand selection and continued use. And I can also say

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that I know because I worked closely with people both in the marketing research department and with people in the marketing of the brand marketing department that that was a, that imagery was an important part of the dynamics of brand selection and use.

BY MR. JANECEK:

Q. My point is that that's -- that was consistent throughout those departments that were involved in these types of issues. Your memo was not an aberration, so to speak, on the idea of the importance of imagery and brand selection; correct?

A. Not necessarily, no. At the -- at the time -- let me -- at the time I wrote the memo, there was -- my impression was that there was not a universal feeling or awareness of the importance of the imagery.

Subsequent to that, there, there developed a -- an understanding of the importance of the imagery, not just from my memo, but my memo was a part of a process that stressed the importance of the imagery, the statement of a cigarette as to the kind of a person.

Q. Did you have a chance to read to the

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end of that Paragraph 3?

A. No.

Q. Did read the sentence, the last sentence, or second to last sentence that says:

"In view of the need to reverse the preference for Marlboros among younger smokers, I wonder whether comic strip type copy" --

A. What page are we on?

Q. Page 5.

A. Page 5.

MR. STERN: You're asking him to read that paragraph that begins with "in view of the need"?

MR. JANECEK: Right.

MR. STERN: Okay. He's pointing to this one.

THE WITNESS: Okay. And your question?

BY MR. JANECEK:

Q. My question is: Based on your experience, do you have an opinion as to whether comic strip type copy might have a higher readership among younger people than other type copy?

A. No, I don't.

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Here?

MR. STERN: Yeah, that way they don't get lost. If you put them on there, we'll know those are the copies.

THE WITNESS: Okay. Are you through with this?

MR. JANECEK: Yes.

MR. STERN: Put it in -- the copy in that little stack there. That way they don't get lost and the reporter knows where they are at the end of the day.

MR. JANECEK: Mr. Tredennick, I'm having the court reporter mark as Exhibit 6 a document entitled "Research Planning Memorandum on Some Thoughts About New Brands of Cigarettes for the Youth Market."

(Tredennick Exhibit No. 6 was marked for identification and is annexed hereto.)

BY MR. JANECEK:

Q. I'll also have a copy of the same document that was produced to me by your counsel this morning with some handwritten notes on it, and we'll have that as Exhibit 7.

(Tredennick Exhibit No. 7

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was marked for identification and is annexed hereto.)

BY MR. JANECEK:

Q. Mr. Tredennick, the document that you produced similar to the one I just had marked as Exhibit 6, do you know whose handwritten notes these are?

THE WITNESS: I need to talk with you about this one.

MR. STERN: Okay.

VIDEO OPERATOR: Off the record at 11:43 A.M.

(Discussion off the record.)

VIDEO OPERATOR: We're back on the record at 11:46 A.M.

MR. STERN: At this point I'm going to raise a privilege objection with respect to these.

As you will discover from examining the witness on this issue, he was contacted by the Ness, Motley firm and provided with a copy of this and made notes on it for communication to them. Whether it is covered by some type of a privilege, we truly don't know whether it is a work product type of privilege because he was hired by the Ness, Motley firm. I don't know that it would be

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an attorney-client privilege, but I do wish to point it out in the event that there is a privilege out there so that it doesn't get waived. I understand you've some order in your case that permits this kind of inquiry without any -- there being any waiver of privilege and that's the reason for raising that at this point.

MS. RIVERA-SANCHEZ: Only to the extent that a document is publicly available. And I just want to add, I don't believe that this copy of the document with his notes on it is a publicly available document. So I don't believe that it would be covered by the scope of the order, but that's your call to make.

MR. STERN: I'm not sure what privilege would be applicable. I will raise the privilege, and we'll have to just simply take it on a question-and-answer basis.

BY MR. JANECEK:

Q. Mr. Tredennick, these notes are your notes?

A. Let me look to make sure.

MR. JANECEK: Off the record.

VIDEO OPERATOR: We're off record at 11:45.

(Discussion off the record.)

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VIDEO OPERATOR: We're back on the record at 11:48.

BY MR. JANECEK:

Q. Mr. Tredennick, have you had a chance to review all the handwritten notes?

A. Not all of them, but I glanced through them.

Q. Are those your notes?

A. Yes, these are my notes.

Q. That's your handwriting?

A. Yes. I hate to admit it, but yes.

Q. Why do you hate to admit it?

A. Because it's almost illegible. The spelling is very bad.

Q. Mr. Tredennick, when did you make these notes?

A. Would have been over a year or so ago, maybe two years ago now.

Q. What were your general impressions of the document that we've marked as Exhibit 7?

MS. RIVERA-SANCHEZ: Object to form.

MR. STERN: You're talking about as of a year or so ago when he made the notes?

MR. JANECEK: Right; correct.

THE WITNESS: General impression? Could

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you --

BY MR. JANECEK:

Q. You were shocked that this document existed, weren't you?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: No, I wasn't shocked. I did not think the -- I didn't think it was an appropriate or a very well-considered document.

BY MR. JANECEK:

Q. What do you mean it was not an appropriate?

A. I think it was a stream of consciousness as opposed to something which had been carefully thought through and was based on facts as they were known at the time.

Q. So you weren't, you didn't take issue with the content, it was just the approach?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: The approach and the content.

BY MR. JANECEK:

Q. You didn't think --

A. Some extent, although I don't recall exactly, but probably both the approach and the preparation and the content.

Q. That is --

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A. It is not clear in my mind, but I think I was, I had problems with all of those.

Q. Mr. Tredennick, I'm having trouble reading the very first handwritten note that starts outlandish -- "outlandish attempts to" --

A. "Outlandish attempt to exploit perceived vulnerabilities of youths clearly from Page 1, 19 and under."

Q. What did you mean by that?

A. I don't recall.

Q. Why was it outlandish?

A. I don't recall. I would have to...

Q. Mr. Tredennick, if you can turn to the first page, it is not numbered, but the page that is labeled "Draft" at the top.

A. Uh-huh.

Q. And do you see your comment at the end of the first full paragraph?

A. Uh-huh.

Q. Does that say:

"In what conceivable way is this not to influence?"

A. Yes.

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Q. What did you mean by that comment?

A. I need to go back and read what the comment was.

Q. Okay.

A. I think my thought there was if you offer an opportunity to use our brands, that, by definition, would have to be an attempt to influence. And my prose here is a little dramatic maybe.

Q. If you could turn to Page 2 -- this one does have a page number at the top.

A. Uh-huh.

Q. And take a look at your comment in the middle of the page:

"Isn't this addiction by definition?"

A. Yes.

Q. What did you mean by that?

A. Let me see what the statement is. I was -- "isn't this addiction by definition," I was questioning what is the definition of addiction.

Q. The fact that the physical effects of smoking become the overriding concern rather than other concerns?

A. No. I was, I just, I was just

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wondering what his definition of "addiction" was.

Q. If you can take a look at the last handwritten note you put down there.

A. Uh-huh.

Q. With respect to the sentence, it says:

"Once this mechanism has been experienced and used, physical and psychological habit patterns are firmly established and become self-perpetuating."

And then you denoted "addiction" exclamation point?

A. Yes.

Q. What did you mean by that?

A. Again, it is a question of his definition of what "addiction" is.

Q. Well, how come this one doesn't have a question mark and this instead has an exclamation point?

A. I don't know.

Q. Couldn't it be that when you read there and made these notes, you were thinking that this paragraph was discussing addiction?

A. Let me read the entire paragraph.

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Yes, quite possible.

Q. If you can turn to Page 3, I'm having trouble reading the comment at the bottom of the page.

A. You're just having trouble with what it says?

Q. Yes.

A. You want me to read it to you?

Q. Yes, please.

A. "My view, formed by research results, is that these are most important to confirmed smokers. Most telling is simply Marlboro's growth to dominance."

Q. What did you mean by that?

A. I'm not sure. Let me see. The psychological effects, group identification, stress and boredom relief. I crossed out B so I'm just talking A and C -- C, being self-image enhancement -- and based on -- as you -- from my memo that we talked about before to Christopher and from other research results that I was involved with, I formed the opinion that group identification, self-image enhancement are among

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the very most important issues in a brand selection. And very important to Marlboro's growth. There were other things which were also very important to Marlboro's growth besides those, but those were important issues.

Q. So if I understand you correctly, Marlboro's -- when you are referring to Marlboro's growth to dominance, what you're talking about is -- or are you talking about Marlboro's ability to portray these two factors -- the group identification and self-image enhancement?

A. I don't think so. But maybe it is a -- maybe we're -- maybe it is just the way you phrase it. Could you rephrase?

Q. I guess what I'm trying to understand is what you meant by "Most telling is simply Marlboro's growth to dominance" in this context.

A. Yes. I was referring to the clear imagery that Marlboro projected over a long period of time as one of the indications that group identification and self-image enhancement are important factors in selecting and staying with a brand of cigarette.

And I should add there were other important factors to Marlboro's growth but not

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relevant right here.

Q. If you can look at Page 4.

A. Uh-huh.

Q. Can you read for me your note at the middle of the page that looks like it starts with "although" -- I can't read the second word.

A. Let me read the part, I have to, it's hard for me to read, also. Let me read the --

Q. Sure.

A. -- the four lines here. I really don't remember. I really don't recall what my thought was in here. It refers back to the above in some --

MR. STERN: He was just asking you to read it.

THE WITNESS: I'm sorry. You want me to read it?

BY MR. JANECEK:

Q. Yeah, I'm having trouble reading that myself.

A. Right above this area?

Q. No, your handwritten notes?

A. Oh, okay. I'm sorry.

"Although bad marketing, his intent is clearly to induce

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nonsmokers to become smokers,
almost the quote, smoking gun."

Q. And when you were just saying that you didn't know what you meant by this, that's what you were referring to is this statement, you were referring to?

A. I was looking at the three or four words down below. I am not sure what my thought was there.

And so that what I just read to you probably referred to the paragraph above, and I would need to read that to find out what I was -- which would you like me to do?

Q. Yes, please.

A. Okay. Yes, okay. So ask your question.

Q. What did you mean by "almost a smoking gun"?

A. I was using a "smoking gun" as the imagery of proof positive that something wrong has been committed. And it looks to me like, these four or five lines, without going back to Table I, which we may or may well want to do, is a -- comes close to being a smoking gun, that there was some effort to, at least in his mind -- I don't know

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who wrote this, but I'm presuming it was Claude Teague who wrote the document, who was in the product research area -- that at least in his mind that there was a, you know, there was some sort of of an intent to focus advertising and promotion to people under the age of 18, which we were cautioned and under oath at the time -- not under oath -- but we were, we just didn't do that at the time. We didn't research to young people, and we didn't market to young people, people -- young being under the age of 18.

Q. Isn't there -- I mean, as I read this paragraph -- and maybe you had a different understanding when you read this paragraph --

A. Uh-huh.

Q. As I read this paragraph, it wasn't limited to market. Wasn't he also discussing the development of a youth brand of --

MS. RIVERA-SANCHEZ: Objection to form.

BY MR. JANECEK:

Q. -- a cigarette for a new smoker?

MR. STERN: I'm going just -- let me just object to this line of questioning. Basically, what you're asking him to do is to review documents that for all appearances he never saw

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when he was at Reynolds and asking him for his impressions as based upon as a result of his notes. I have a problem with that as a methodology. Basically, what you're asking him to do is to interpret a document, and I'm not sure of the basis for asking him to go through this document or any other document for his impressions.

MR. JANECEK: I just want to make sure I understand his notes.

MR. STERN: Same objection. I'll let you go on for a while but it just doesn't seem to me to be permissible from an evidentiary standpoint. What he thinks of this particular document or what I think of it or what you think of it is all interesting, but I'm not sure how it ever gets into evidence in the case. But I'll let you go on to at least, so that you can at least understand what he's written so you can make the appropriate arguments whenever you want to make them.

THE WITNESS: Okay. And the question now is?

BY MR. JANECEK:

Q. My question is: When you were describing for me what you meant by "almost a

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smoking gun," you only used the marketing side.

And my question to you is: Did you also, also in your decision-making in writing this note, have anything to do with the development of a new youth brand as opposed to marketing?

A. No, I -- I don't know. It would -- your guess -- you can understand the lines up here as well as I can.

Q. I just --

A. I was just responding to that particular, that particular five or six lines above it.

Q. I was just looking for what your understanding of that was, of that paragraph was when you wrote this note.

A. Well, I understand it to be -- should be possible to aim a cigarette promotion at the beginning smoker. You know, that would seem to be fairly independent of whether it was a new brand or established brand.

Q. With respect to the next paragraph under physical effects.

A. Uh-huh.

Q. You've got the note and looks like "fool the poor suckers." Did I get that right?

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A. Probably "fool the poor suckers."

Q. What did you mean by that?

A. Again, I have to look back and read the paragraph.

VIDEO OPERATOR: Mr. Janacek, I need to change tapes.

MR. JANECEK: Let's do that now while he is reading that paragraph.

VIDEO OPERATOR: We're off the record at 12:06 P.M. This is the end of tape 1.

(Recess taken.)

VIDEO OPERATOR: We are on the record at 12:09 P.M. This is the beginning of Tape 2.

BY MR. JANECEK:

Q. Mr. Tredennick, did you have a chance to read that paragraph?

A. Yes, uh-huh.

Q. And did I get your comment right, was that "fool the poor suckers"?

A. Yes, that's what was written there.

Q. What did you mean by that?

A. I haven't the vaguest idea.

Q. Could that possibly have been the idea that since it's difficult, or since it's physically unpleasant for a new smoker to begin

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smoking, that you need the psychological, the images, the advertising, et cetera, to draw them into smoking?

MS. RIVERA-SANCHEZ: Objection. --

THE WITNESS: I don't know.

MS. RIVERA-SANCHEZ: -- to form.

THE WITNESS: I don't know if I had that in mind or not.

BY MR. JANECEK:

Q. Possible you had that in mind?

MR. STERN: Objection.

THE WITNESS: Not likely.

BY MR. JANECEK:

Q. What would you likely have had in mind?

A. I really don't know, if anything.

Q. Mr. Tredennick, if you can turn to the next page. Are you on Page 5?

A. Yes, uh-huh.

Q. The numbered Paragraph 4, visual? You see that, numbered Paragraph 4?

A. Yes, uh-huh.

Q. And what is your note in the margin there?

A. "Tar causes cancer."

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Q. What did you mean by that?

A. Again, let me read that.

I don't recall what I was -- what my -- if I had any point there or not outside of a comment that it is tar that is related to the formation of cancer. And I don't recall. May have had something to do with the tar level of 10 to 14 milligrams. I don't know -- I forget now whether that is very high or very low.

Q. If you can look at the last two comments on this page, the "let them inhale easily" exclamation point?

A. Uh-huh. Yes.

Q. What did you mean by that one?

A. I think I was just rephrasing the -- rephrasing what was said.

Q. Is that the idea?

A. I think what he is saying here is -- I wasn't quite clear on what he was saying -- the draft resistance -- but I think it is to let people inhale easily without having too much resistance on the smoke.

Q. Now --

A. It is not clear because Vantage is a relatively low tar and nicotine cigarette and so

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it confused me, what he was really trying to say again.

Q. And could that have been, again, the idea that since smoking is physically unpleasant for a new smoker, that you've got to have something that let's them inhale it easily?

A. I don't know.

MS. RIVERA-SANCHEZ: Objection to the form.

THE WITNESS: I don't know.

BY MR. JANECEK:

Q. In your last comment on this page, what's that?

A. "Good grief."

Q. What did you mean by "good grief"?

A. I don't know what I meant, if anything. My wife's name is Lucy and we use the Charlie Brown characterization frequently so "good grief" could mean almost anything in this particular context.

Q. Was that your overall impression --

A. I say "good grief" about many, many things.

Q. Was that reflective of your overall impression of Mr. Teague's ideas?

A. I don't think so.

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MS. RIVERA-SANCHEZ: Objection to form.

THE WITNESS: Not in this location. If I had an overall impression, it would be at the end.

BY MR. JANECEK:

Q. If you can turn to Page 6?

MS. RIVERA-SANCHEZ: I'm just going to -- I want to go on record and object to this entire line of questioning. If you continue this line of questioning, I have to agree with counsel's prior comments, I fail to see how any of these questions about a document that he reviewed, as far as I can tell from his testimony, within the last few years about what was written in a document over 27 years ago by someone else is going to lead to any relevant or any admissible evidence in this case. So I object to the entire line of questioning.

BY MR. JANECEK:

Q. On Page 6, Mr. Tredennick, do you see your comment "teaching (learning aides)"?

A. Yes, uh-huh.

Q. What did you mean by that?

A. I don't know.

You want me to read it and see if I can discern what in the world I was thinking of?

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Q. Please, please.

A. "Physiological effects."

No, I haven't the vaguest -- I haven't the vaguest idea of what I was thinking of.

Q. But you were referencing teaching someone to smoke?

MS. RIVERA-SANCHEZ: Objection to the form.

THE WITNESS: No, not necessarily. Obviously, I was responding to learning, the word learning there, because I drew the arrow from that word so but what I meant, I really don't know.

BY MR. JANECEK:

Q. If you can look at your next comment there, "Formulation secondary to ad and" -- is that "prom," P R O M?

A. Yes, uh-huh. Shorthand for advertising and promotion.

Q. Can you take a look at whatever you need to look at to tell me what you meant by that?

A. Yes. You want me to?

Q. Please.

A. I'm not sure. I can speculate if you want me to.

MR. STERN: No.

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BY MR. JANECEK:

Q. What do you think you might have meant?

A. I was rephrasing what he was saying. But I really don't recall.

Q. What do you think he meant by the word "formulation"?

A. How the product, what the product, how the product was constructed.

Q. So that's the comparison between --

A. How the product was constructed.

Q. So when you're saying formulation secondary to advertising and promotion, that's -- somehow you're comparing advertising and promotion to the actual product itself?

MS. RIVERA-SANCHEZ: Object to the form. It's vague.

THE WITNESS: I don't know how to answer. Restate the question.

BY MR. JANECEK:

Q. When you're saying "formulation is secondary to ad and promotion," advertising and promotion, are you comparing the importance of those two?

A. No, I'm restating what I thought he

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was saying in here.

Q. If you can look at Page 7.

A. Uh-huh.

Q. And --

A. Yes, Page 7.

Q. Take a look at the last paragraph, the -- your handwritten notes "particularly early teens."

A. Yes, I see that.

Q. Are you referencing the idea that's set forth that young people tend to reject what is, whatever is accepted by the, quote, over 30, close quote, establishment?

A. I don't know. You want me to read it?

Q. Please.

A. I can't -- I can't recall what that comment related to.

Q. But you're referencing that paragraph there?

A. I am not even sure of that because it doesn't make an awful lot of sense now to me.

Q. Well, does it make sense that early teens would not use the cigarette brand that the over-30 establishment would use?

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A. Not in my opinion, currently, right now. Not -- my opinion would be more that a major influence in starting to smoke is what the parents do. So a younger person would be much more inclined to start with a cigarette that their parents were smoking.

Q. What about brand selection, though?

A. The same cigarette. I mean brand.

Q. So it's your opinion that an early teen, if they were going to begin smoking, would select as their brand their parents' brand?

A. Yes.

Q. They wouldn't necessarily select their peer group's brand?

A. No, not necessarily. No. That's not what I said. The very early teens I think would select or very likely to use whatever their parents are using mostly because it is available. Then as they maybe get older, it may be more a peer group decision.

Q. Then they tend to move away from their parents' brand?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: Are you asking me or telling me?

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BY MR. JANECEK:

Q. Yes, I'm asking. Is that correct?

A. Just my general feeling would be something like that. Not a very strong feeling. I don't know really.

Q. That's what your opinion would be?

A. That's what my -- my guess would be, really.

MR. STERN: I think actually his prior comment is that what you're telling me is actually revealing of what's going on here. All you're doing is having a discussion with him about what his impressions are. I don't know how you are ever going to wind up using this, and I think it is a big waste of time, but it's your waste of time and I'm going to let you finish it and hopefully resume after lunch with a little bit more speed on issues that are directly relevant to his knowledge.

BY MR. JANECEK:

Q. If you could turn to Page 9 -- unfortunately, I think it got cut off, but it looks like it should be 9. At least it's the page before 10.

A. Are you looking at the page that

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starts off near in the third line down, says "product quality factors"?

Q. Yes.

A. I have that.

Q. In the margins you put "controllable"?

A. Yes.

Q. Is that right?

A. Controllable, uh-huh.

Q. Are you talking about the ability to control nicotine levels?

A. Let me look.

I don't know.

Q. Could that have been what you were referring to?

A. It could be the nicotine level or it could be the pH factor.

Q. If you look at Page 10?

A. Yes.

Q. The margin comment looks like "exploit"; is that right?

A. Yes.

Q. What did you mean by that?

A. I don't know. Let me read. You want me to?

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Q. Yes.

A. I don't know what I was referring to there.

Q. What about that comment "read A and P"?

A. I haven't the vaguest idea of what I was thinking of there.

Q. And the last question on this document, Dr. Tredennick, if you can turn to the first page of this document, the one that says "Draft."

A. Yes, hang on. Or wait.

MR. STERN: Sorry. The first page that says "Draft"? I'm not sure I follow you.

MR. JANECEK: It's after the cover.

MR. STERN: I'm sorry.

MR. JANECEK: Doesn't have a page number.

THE WITNESS: I see.

BY MR. JANECEK:

Q. Are you there?

A. Uh-huh. Presumably Page 1.

Q. Presumably. Do you recall what you thought when you read: "Realistically, if our company is to survive and prosper" -- do you see that on the second paragraph? Do you see where

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I'm at?

"Realistically, if our company is to survive and prosper over the long term, we must get our share of the youth market."

MS. RIVERA-SANCHEZ: He's at the first sentence of the second paragraph.

THE WITNESS: The second paragraph?

MR. STERN: You are reading that. Thank you.

THE WITNESS: "Realistically, if our company is to survive and prosper over the long term, we must get our share of the youth market."

BY MR. JANECEK:

Q. Do you recall that -- does that stand out in your mind, that sentence there?

A. No, it doesn't. It does not now.

MR. JANECEK: Did you want to take a lunch or --

MR. STERN: Yeah, unless you're, you know, 15 minutes from being done, then I don't want take a lunch break.

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MR. JANECEK: No. I'm not 15 minutes but about 15 minutes from getting through this part. I can break now or I can, I can have a natural break.

MR. STERN: If you have a natural break coming up in 15 minutes --

Can you wait 15 minutes?

THE WITNESS: I think so.

MR. STERN: Okay.

THE WITNESS: If I don't, I'll let you know.

MR. STERN: Can you wait 15 minutes?

MS. RIVERA-SANCHEZ: I think I can hang on.

MR. STERN: Okay.

THE WITNESS: Okay.

BY MR. JANECEK:

Q. Mr. Tredennick, do you know who Rick McReynolds is? Is that name familiar?

A. Rick?

Q. McReynolds.

A. No. I'm not familiar with the name.

Q. What about Dana Blackmar?

A. Not -- I don't know who he was.

Q. Okay.

A. Or who he is.

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Q. But you've heard that name?

A. I don't think so. I might have.

Q. Were you aware in 1974 of the cartoon camel that was being used by the French affiliate of R.J. Reynolds?

A. No.

MS. RIVERA-SANCHEZ: Objection to the form.

BY MR. JANECEK:

Q. Were you aware that the domestic corporation, R.J. Reynolds Tobacco Company, was thinking of using the French cartoon camel in the United States?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: No.

BY MR. JANECEK:

Q. I hand you a document which I will have the court reporter mark as Exhibit No. 8.

(Tredennick Exhibit No. 8 was marked for identification and is annexed hereto.)

BY MR. JANECEK:

Q. If you can take a look at the first paragraph and see if that sparks any recollection.

MR. STERN: And your question is?

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BY MR. JANECEK:

Q. Whether or not this refreshes your recollection as to whether or not there was any discussion about the French camel advertisement.

A. No, it doesn't.

Q. What do you think is meant by the sentence:

"It is about as young as you can get. It aims right at the young adult smoker Camel needs to attract."

MS. RIVERA-SANCHEZ: Object to form and calls for speculation.

MR. STERN: It's also very violative of the best evidence rule. I can't imagine why, but, you know, like I said, you can deal with that at trial. If you can answer the question, you're entitled to his answer. I don't think it will ever get past that.

THE WITNESS: Your question?

BY MR. JANECEK:

Q. Do you have any understanding of what they would be talking about using the French camel because it's, because it's, quote, "about as young as you can get and aims right at the young adult

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smoker Camel needs to attract"?

MS. RIVERA-SANCHEZ: Same objection.

THE WITNESS: Yes.

BY MR. JANECEK:

Q. What do you think they were referring to?

A. I think they are saying, one, Rick, whoever Rick is -- and also I can, I can speculate, I can reasonably say that Rick is probably one of the younger people in the Reynolds market, I don't know. I can't say that.

Well, I can't say who they were. Looks like an internal agency document was not sent to RJR except through carbon copy, and he is saying that he likes the overseas Camel ads, and thinks it's very appropriate for the young adult market, which is clearly people between the ages of 18 and 24.

Q. And that's why he says it is about as young as you can get?

A. And that's as young as you can get under the constraints that existed at that time. This is 1974.

Q. This is the time when they were tracking the market share of 14- to 17-year-olds?

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MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: I don't believe -- when you say tracking, I'll assume that you mean keeping close watch on that and reporting it regularly with some intent to interpret or analyze. They weren't doing that either at this time. At least we weren't.

BY MR. JANECEK:

Q. But when you just looked -- we started this deposition out looking at annual reports of the 14- to 17-year old market share.

A. Yeah. That was a by-product of the NFO panel data which was, as I have -- I think I've testified 15 times, 15 times -- was for -- it had the same, the same purpose as the government's development and reporting of information as to smoking incidents along all age groups, and we can get reasonably, going down as far as by reasonable, you could expect. They could have gone down to 8-year-olds probably and found some smokers.

Q. But Reynolds purchased the 14- to 17-year-old information?

MS. RIVERA-SANCHEZ: Objection to the form. Mischaracterizes the testimony.

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THE WITNESS: No, it purchased all of the information that was generated by the panel.

BY MR. JANECEK:

Q. Including information on 14- to 17-year-olds?

A. Yes. In terms of the age of the smoker.

Q. Two more quick documents, then we'll take a break. Give the court reporter a document we'll have marked as Tredennick Exhibit No. 9.

(Tredennick Exhibit No. 9 was marked for identification and is annexed hereto.)

BY MR. JANECEK:

Q. Mr. Tredennick, if you can just take a, you know, thumb through it and see if you have seen this document before.

A. Okay.

Q. Have you seen this document before?

A. No.

Q. Do you know who Mr. C.A. Tucker is?

A. Yes.

Q. Who is Mr. C.A. Tucker?

A. His name was -- first name was Charles. He worked for Reynolds Tobacco, and I

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don't recall what his particular function was --

Q. He was --

A. -- at the time.

Q. He was a vice-president of marketing, wasn't he?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: He -- I don't know. I'm not sure. In September of '74, I don't remember. I don't recall.

BY MR. JANECEK:

Q. Do you recall --

A. I don't recall him ever being director of marketing.

Q. I didn't say director but vice-president of marketing.

A. Vice-president.

Q. Vice-president of --

A. Marketing.

Q. -- marketing?

A. I don't recall that. I know him fairly well. I don't recall him being vice-president of marketing, particularly at that time.

Q. And you see the presentation to RJRI B&D?

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A. Yes.

Q. RJRI, at that point would have been RJR Industries?

A. I don't know.

Q. Who was the parent corporation of R.J. Reynolds Tobacco Company in 1974?

A. R.J. Reynolds Industries.

Q. Do you see that the title of this presentation is "Marketing Plans"?

A. I see that.

Q. If you could take a look at the first page.

A. Okay.

MR. STERN: Are you going through another document he has never seen?

MR. JANECEK: We're going to go through just a couple of pages.

MR. STERN: I don't get it. I don't get the point of it. At some point -- I mean I'm just putting you on notice now we've got a limited amount of time. At some point you're going to run out of time and we're not going to extend it.

MR. JANECEK: I understood.

MS. RIVERA-SANCHEZ: I'm just going to object, again, to the whole procedure. I don't

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think it's appropriate, and I don't think it's going to lead or reasonably lead to reasonable evidence.

THE WITNESS: Can I request a restroom break?

MR. STERN: If you're going to do a restroom break, let's just do a lunch break and do it now.

VIDEO OPERATOR: Off the record at 12:33 P.M.

(The luncheon recess was taken at 12:33 P.M.)

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APPEARANCES OF COUNSEL:

(P.M. SESSION)

FRANK J. JANECEK, JR., ESQ.

KIM M. RIVERA-SANCHEZ, ESQ.

DAVID M. STERN, ESQ.

ALSO PRESENT:

CHUCK GOSWITZ, VIDEO OPERATOR

REPORTED BY:

ERNEST M SANCHEZ, JR., CSR No. 7114

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(The deposition of DONALD WALDRON TREDENNICK was reconvened at 1:38 P.M.)

DONALD WALDRON TREDENNICK,
having been previously duly sworn, testified further as follows:

VIDEO OPERATOR: We are back on the record at 1:38 P.M.

EXAMINATION (CONTINUING)

BY MR. JANECEK:

Q. Mr. Tredennick, did you have a chance before we took the break to take a look at this document just to see if you had seen it?

A. There was a possibility that I have seen it in the last three years, but it's not one I saw or had any knowledge or input to back in '74, '75, whatever this is.

Q. Mr. Tredennick, can you take a look at the first paragraph on the first page. It is not marked but if you are looking for a reference it's RJN 063253.

MR. STERN: Okay. He has the correct page in front of him.

MR. JANECEK: Okay.

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THE WITNESS: This is Exhibit 9.

BY MR. JANECEK:

Q. Yes.

A. Okay.

Q. And, again, this marketing plan document is a marketing plans presentation at Hiltonhead in September 30 of 1974.

Did you -- are you aware of that marketing plans presentation?

A. No.

Q. Did you hear anyone discussing a presentation in September of '74?

A. Not that I can recall.

Q. Can you take a look at the first paragraph that states:

"Our paramount marketing objective in 1975 and ensuing years is to reestablish RJR's share of marketing growth in the domestic cigarette industry."

A. Uh-huh.

Q. Do you know how RJR or what ages RJR referenced -- I'm sorry -- this doesn't have that. The next one.

If you look at the opportunity areas

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to accomplish that plan to reestablish RJR's share of the marketing growth, No. 1 says "increase our young adult franchise"?

A. Yes.

Q. Do you have any understanding of what the term "young adult franchise" means?

A. No.

MR. STERN: Wait a second. Let me clarify this. Do I get it right that you are asking him what a memo which he has never seen, written by someone whom he doesn't know, meant to the author and meant within the context of this document in 19 -- on or about September 30, 1974? Make sure I understand that that's your question.

MR. JANECEK: No, you're getting it absolutely wrong.

MR. STERN: Okay. Your question is, using this document as a frame of reference, whether Mr. Tredennick has any understanding of how the term "young adult franchise" was used at RJR, Mr.Tredennick's understanding.

MR. JANECEK: His understanding at that -- when he was back at RJR, whether that term was used and what it meant, if he knows about it, to him.

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MR. STERN: Fire away.

THE WITNESS: Okay.

BY MR. JANECEK:

Q. Do you want me to rephrase the question?

A. No, it's okay. I think the term "young adult" means -- was a very specific term that meant men and women between the ages of 18 and 24.

Q. Are you sure that's not between the ages of 14 and 24?

A. Absolutely positive.

Q. If you can take a look at the next paragraph.

A. Uh-huh.

Q. The next full paragraph starting with:

"First, let's look at growing importance of the young adult in the cigarette market."

A. Uh-huh.

Q. In 1960 does "young adult market," the 14 to 24 age group, are you sure that "young adult" as used by Reynolds management did not encompass 14 to 24-year-olds as indicated on this

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document?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: Well, it's fairly obvious that it was, but I am sure that, you know, to my knowledge, and virtually everybody I knew, used "young adult" to mean 18 to 24.

BY MR. JANECEK:

Q. Now, you said you knew Mr. Tucker?

A. I knew him pretty well, uh-huh.

Q. And in Mr. Tucker's presentation the reference to "young adults" is the 14 to 24 age group?

MS. RIVERA-SANCHEZ: Object to the form.

MR. STERN: You're making the representation that this is Mr. Tucker's presentation?

MR. JANECEK: Yes.

MR. STERN: Is that correct?

MR. JANECEK: Yes.

MR. STERN: That's your representation to the witness?

MR. JANECEK: That is our representation.

MR. STERN: Okay.

THE WITNESS: So you know that this was Mr. Tucker.

BY MR. JANECEK:

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Q. This is a presentation given by Mr. Tucker to the board of directors at RJR Industries on September 30, 1974.

A. And what are you asking me now? Because obviously the -- this says -- are you asking me if I'm reading it correctly or what?

Q. I'm asking if you want to clarify your previous answer which was that everyone you knew --

A. Including Charlie Tucker.

Q. -- meant 18- to 24-year-olds when they used the term "young adult"?

A. No. To the best of my knowledge at that time everyone when they used that particular term, meant 18 to 24. And best of my knowledge Charlie Tucker was part of that construct, if you would.

Q. Excepting this presentation to the board of directors?

MS. RIVERA-SANCHEZ: Objection to the form.

THE WITNESS: I don't know. I don't know that. Obviously, I mean, you can read it, I can read it. In this presentation, the way this is written, seems to say that he, at least was to in some part, talking about 14 to 24 age group. But

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that's not what the term was intended to use -- intended to mean.

BY MR. JANECEK:

Q. One of the key opportunity areas was to increase this young adult franchise?

MR. STERN: Objection. You're testifying.

MS. RIVERA-SANCHEZ: Object to the form.

MR. STERN: You are testifying about this document. If you, you know, can ask him what he knew and when he knew it, but let's not ask him what a document that he has never seen before this moment means. There is no point to that. I'm really not going to let it continue. I mean, we took a nice break over lunch. I would like to keep this within the -- somewhere within hailing distance of the federal rules of evidence.

MR. JANECEK: He's testified that he was unaware of anyone at Reynolds that was marketing or planned on marketing to people younger than 18. This document contradicts it. I'm entitled to go into whether or not that changes his understanding, changes his perception, changes his recollections. I'm entitled to go into it.

MR. JANECEK: Oh, excuse me. Let me --

MS. RIVERA-SANCHEZ: He's testified -- oh.

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MR. JANECEK: Maybe I can --

MR. STERN: What did you say, Counsel?

MS. RIVERA-SANCHEZ: I said he's testified that it doesn't, but go ahead. And now you're just continuing to ask him the same question over and over.

THE WITNESS: Okay. So let me reiterate that it does not change my original testimony.

Charlie, when I was there in '74, would have used "young adult" to mean 18 to 24. I would have used it. Virtually every person in the marketing department would have used that expression. That was -- that was the definition of "young adults," 18 to 24.

It may be different in here because he is talking about the young adult in the cigarette market in 1960 -- I don't know this for sure -- but in 1960, young adult may have meant a 14 to 24. And it was after 1960 that the agreement not to market to youths, underage people, was arrived at and the term "young adult" was defined as 18 to 24.

BY MR. JANECEK:

Q. Can you take a look at the next paragraph?

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A. Uh-huh.

Q. Where, again, talking about the young adults, Mr. Tucker states:

"They represent tomorrow's cigarette business. As this 14 to 24 age group matures, they will account for a key share of the total cigarette volume for at least the next 25 years."

MR. STERN: Is there a question?

BY MR. JANECEK:

Q. Do you see that?

A. Yes.

Q. Now, Mr. Tucker isn't talking about 1960 now, he is talking about the next 25 years.

MS. RIVERA-SANCHEZ: Object to the form.

BY MR. JANECEK:

Q. Correct?

MR. STERN: Just a second. I'm going to object, and I'm going to do something I have not done today. I'm going to instruct the witness not to answer this particular question because it's really getting out of hand. You are simply arguing with him over what a document says or

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means that he has never seen before.

If you want to ask him about his recollection, which you have; if you want to ask him about his understanding at the time, which you have; that's fine. But to start arguing with the witness about what a document, apparently written by someone that -- you know, apparently written by someone who Mr. Tredennick knew but a document he has never seen, I just don't get it. And I'm not going to allow this to continue at this point.

MR. JANECEK: So what's the basis of the objection?

MR. STERN: The objection, the basis for the objection is that this is not relevant to the subject matter of the case nor reasonably likely to lead to the discovery of admissible evidence. Furthermore, that it is argumentative and repetitive.

MR. JANECEK: Whose -- are you counsel for RJR because the -- I'm talking to you, Mr. Stern -- because the objections you're making are RJR's objections, not those that would be used in protecting your client.

MR. STERN: And it's also -- I am protecting my client, who is Mr. Tredennick. I really don't

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see why functionally badgering him is appropriate. And I think this is badgering. I think asking a witness to simply go through this over and over again -- I don't have any problem with your asking what he did when he was at Reynolds, what he understood when he was at Reynolds. That's why we're here.

Ask to your heart's content. Where that falls for Reynolds, I don't care. But what I do care about is that we are spending this gentleman's time, uncompensated, 20 years after he left the employ of Reynolds, for no apparent reason.

You know what? I'm not going to go on giving my objection on this ground because that's extending this thing. Let's just get to the issues that are pertinent to something.

MR. JANECEK: These are pertinent. I'm entitled to know what it is he knows, has heard of, people he knows and discussed things with.

MR. STERN: No dispute. What I'm asking you not to do is argue with him over: "Come on, Mr. Tredennick, look at the document. Doesn't that change -- doesn't that change your recollection?" He has a recollection. He is

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giving it honestly. Let him do it and move on.

BY MR. JANECEK:

Q. Let me ask this way. Your reading of that paragraph, does that contradict your understanding of what the term "young adult smoker" means?

MS. RIVERA-SANCHEZ: Objection to form, argumentative.

THE WITNESS: No. The term "young adult," when I was there during this time period, meant 18 to 24.

BY MR. JANECEK:

Q. And just so that I've got it clear, your testimony is that the presentation here referencing young adults at 14 to 24 is not inconsistent with your recollection of what a young adult smoker is?

MR. STERN: Wait. Too many negatives, too many negatives. You said not inconsistent.

MS. RIVERA-SANCHEZ: And it mischaracterizes his previous testimony.

BY MR. JANECEK:

Q. Is it consistent with your understanding of the term "young adult"?

A. Is the writing here inconsistent with

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my understanding?

MR. STERN: No. Is the writing here consistent with your understanding of the term "young adult"?

THE WITNESS: In this last paragraph -- let me read it again.

Yes, it looks inconsistent from my understanding.

BY MR. JANECEK:

Q. If you can go to the next page, RJN 06325[illegible], do you see that?

A. Uh-huh.

Q. If you can just read the last paragraph, the paragraph "our two brands." I have a question on that paragraph. Do you see that "our two brands," major brands?

MR. STERN: Oh, here it is, yeah.

THE WITNESS: Uh-huh.

BY MR. JANECEK:

Q. Through the end of the page.

A. Okay. I read it. I read that.

Q. We discussed earlier whether or not you had any understanding as to whether Marlboro's overtaking Winston was a result of its ability to obtain smokers younger than 18 years old.

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A. Uh-huh.

Q. And you, I believe, testified you didn't know.

A. The way you phrased, we would have to read it back, but the way you phrased the question, I said I didn't know.

Q. Just in case it was my poor question, were you aware during your tenure at R.J. Reynolds Tobacco Company, whether Marlboro's rise to the No. 1 brand was as a result of its ability to attract persons younger than 18 years old?

A. No, I was not. I think the answer is no. There were, there were a number of reasons, in my judgment, which I testified to formerly, that influenced Marlboro's advanced share of the market.

Q. Was one of those -- because I thought you said you didn't know -- was one of those Marlboro's large market share with respect to persons younger than 18?

A. No. No, I don't think so.

Q. Were you aware that Winston was not, did not have as large of a market share during your tenure at Reynolds in the under 18 market?

MS. RIVERA-SANCHEZ: Objection. No

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foundation.

THE WITNESS: I can't recall exactly. But probably I was because of the memos that we went through. Not that I pay much attention to it but probably was aware.

BY MR. JANECEK:

Q. Did you understand what -- during your tenure at Reynolds, whether -- or the impact of Marlboro's growing market share in the under 18 market and Winstons' static or declining market share in the under 18 market and how that would affect Reynolds' overall market share in the future?

A. No, I was not aware of how it would. Obviously, it wouldn't do it any good if it kept on like that.

Q. Did you read the last sentence in that paragraph that said:

"This suggests low market share erosion for us in the years to come unless the situation is corrected."

A. Yes.

Q. Did you have -- when you read that, did you have any understanding as to what

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Mr. Tucker was referring to or what needed to be corrected?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: Yeah. One question at a time.

BY MR. JANECEK:

Q. In this presentation to the board of directors it states:

> This suggests low market share erosion for us in the years to come unless the situation is corrected.

Do you have any understanding as to what needed to be corrected at Reynolds?

MS. RIVERA-SANCHEZ: Object to the form and object to the characterization of the document.

THE WITNESS: Yes. I understand, from reading this, that the relatively low market share of Reynolds brands, essentially Winston, versus Marlboro, would have to be corrected. If not, that there would be a continuation of a lower share for Winston versus Marlboro in the future years.

BY MR. JANECEK:

Q. Can you take a look -- and this is

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the last question, series of questions on this document -- at the next page, RJN 063255.

A. Okay.

Q. And the first paragraph starting with: "Thus are strategy becomes clear"?

A. I see that.

Q. Do you want to read that? Just read that to yourself.

A. Yes. I read it.

Q. Now, did you note that the first -- the strategy denoted as No. 1, there is three strategies -- is to direct advertising to appeal to the younger smokers?

A. Yes, uh-huh.

Q. While being true to the brand's basic product attributes?

A. Yes.

MS. RIVERA-SANCHEZ: I'm going to object because you're not asking him a question. You're just reading the document to him, and that is it. There is no question pending.

BY MR. JANECEK:

Q. So you see that?

A. I saw both of those, yes.

Q. Does this statement you've read today

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on this Exhibit No. 9, dealing with directing advertising to appeal to younger smokers, is that consistent with your understanding that Reynolds would not direct advertising at persons younger than 18?

A. Can you put that in a positive sense? I don't know what "yes" or "no" means.

Q. Is that consistent with your understanding?

A. Of what?

Q. Of Reynolds, that Reynolds did not want to direct its advertising at persons younger than 18?

A. Reynolds did not want, to the best of my knowledge at the time, no one at Reynolds wanted direct advertising to people under the age of 18.

Q. So is this presentation inconsistent with your knowledge when it talks about directing advertising to appeal to the younger smokers, which, as we discussed earlier, the document defines as 14- to 24-year-olds?

MS. RIVERA-SANCHEZ: I'm going to object to your characterization of the document and what the definition of "young smoker" is in this document.

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THE WITNESS: Are you asking me for an opinion, about an expert opinion on what the writing means here?

BY MR. JANECEK:

Q. Not so much an expert opinion but your opinion as to whether what you've seen in this document, this marketing -- this Exhibit No. 9 -- is consistent with your understanding on Reynolds' target of the market?

A. I just said that my understanding is that Reynolds would not, and in fact could not, direct advertising to people under the age of 18.

Q. My question is: Is the document that we were just going over consistent with your understanding?

A. I can't answer that question. I don't know. I really don't know.

Q. Well, let's --

A. Would you like me to expand on why I don't know?

Q. Well, let's break it down first, I guess.

A. Okay.

Q. You testified that the definition in here of a "young adult," 14 to 24 age group, is

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inconsistent with your understanding; correct?

A. My understanding of the definition of "young adult," yes.

Q. You've testified that --

A. Yes, if -- if, in fact, the reference back to 1960 is discounted. I just don't know what that definition was prior to 19- -- prior to 1971 when I joined Reynolds Tobacco.

Q. You've testified that -- it is your understanding that Reynolds, one of the markets that Reynolds was targeting was not persons younger than 18; correct?

A. Yes, they -- we were not marketing to people under the age of 18, yes.

Q. If a marketing presentation discussing directing advertising to appeal to the younger smokers, which for the two pages prior is discussing 14- to 24-year-olds, is that consistent with your understanding?

MS. RIVERA-SANCHEZ: Objection. That's a compound question. There's a bunch of questions in there.

THE WITNESS: I can't answer the question. I just don't know.

BY MR. JANECEK:

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Q. It may be consistent with --

A. It may be consistent, it may not be consistent. It depends on -- as you notice, this is a presentation. And what you're seeing here are charts. There was a lot of talking in between the charts, and there were various clarifications of what was on the chart. I have no way of knowing whether this is consistent or is not consistent.

What you read here, you know, may sound one way, but the comments that went with it during the presentation from Mr. Tucker -- who I don't even know that he was given the presentation, but you know, if you're right, he was giving the presentation -- could completely alter the meaning of what you're looking at here. So I have no way of knowing or answering your questions.

Q. Although I'm not talking about the presentation, I'm just talking about the written words. The written words may be consistent or may not be consistent with your understanding?

A. That's correct.

Q. With your testimony?

A. It may or may not. And a lot of it

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depends on what was said about those words.

Q. So --

A. These presentations do not have the entire content of what is said.

Q. So there may be instances in which directing advertising to persons 14 to 17 may be consistent with your understanding of what Reynolds intended to accomplish?

MS. RIVERA-SANCHEZ: Objection to the form.

THE WITNESS: No. My understanding is that Reynolds, the time I was there, even well beyond 1974, would not have agreed to advertising or direct its marketing to people under the age of 18.

In addition, as director of marketing research or consumer research, I was under restraint from interviewing or doing any other consumer work among this particular group.

MR. STERN: Can you put this in the pile of used exhibits?

MR. JANECEK: Yes.

(Tredennick Exhibit No. 10 was marked for identification and is annexed hereto.)

BY MR. JANECEK:

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Q. Mr. Tredennick, the court reporter has handed you a document which I've had marked as Tredennick Exhibit 10. It's a document dated July 22, 1980 from G.H. Long to E.A. Horrigan, Jr.

Do you know who G.H. Long is?

A. Yes.

Q. Who is G.H. Long?

A. Gerald Long. Went by the name of Jerry Long, and he was one of the officers of Reynolds Tobacco, at least prior to, prior to this time.

Q. He became the president of R.J. Reynolds Tobacco Company subsequent to this time; is that correct?

A. I don't know.

Q. Do you know who Mr. E.A. Horrigan, Jr. is?

A. Yes.

Q. Who was Mr. Horrigan?

A. I believe his first name was Ed, and he was -- at the time, I think -- well, at one time he was president of R.J. Reynolds Tobacco.

Q. Take a minute to read through this document. You don't need to read it out loud just familiarize yourself with it.

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A. Okay.

Q. Do you see the subject line of this document reads:

"MDD reports on teenage smokers 14 to 17?"

A. Yes.

Q. Did you, in reading through this, note that -- at least Mr. Long has concluded -- that Philip Morris's share had, in this market, the 14- to 17-year old market, had increased by four points?

MS. RIVERA-SANCHEZ: Object to the form.

BY MR. JANECEK:

Q. It's in the first paragraph if you need to take a closer look.

A. No, sir, I think -- I read it. The corporate share increased by four points.

Q. Thank you.

A. The corporate share.

Q. Did you see, importantly, the report further indicates that RJR's share is gradually declining?

A. Yes.

Q. Or continuing?

A. Yes.

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Q. Did you see the last paragraph where it says:

"Hopefully our various planned activities will be implemented this fall will aid in some way in reducing or correcting these trends."

A. Yes.

Q. Does this document suggest to you, suggest -- is this document consistent with your understanding that R.J. Reynolds Tobacco Company did not want to get persons younger than 18 to smoke cigarettes?

A. At the time that it was written. I have no knowledge of what had changed from the -- after I left or shortly after I left.

Q. So this is inconsistent with your understanding while you were working with, for Reynolds; correct?

MS. RIVERA-SANCHEZ: Object to the form. That is not what he said.

THE WITNESS: Say it again.

BY MR. JANECEK:

Q. My question is: During your tenure at RJR Tobacco, the subject matter of this

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document, reversing these trends that are discussed in 14- to 17-year-old smokers was not consistent with your understanding during your tenure?

A. I still have problems with the --

MS. RIVERA-SANCHEZ: Hold on one second. Let me --

THE WITNESS: Yeah.

MS. RIVERA-SANCHEZ: I'm going to object to the form, and I said it before, I'm just going to reiterate again, I'm going to have a, I'm going to object to your reading these documents into the record and then asking him to opine and discuss what is in documents that he has never seen before. He is not my witness. I can't instruct him not to answer. His counsel will have to and will have to make a decision on that. But, I mean, I object to this, and I don't know how many more of these documents you have, but I'm going to raise a standing objection to this procedure.

MR. JANECEK: It is noted.

I will just note for the record that Mr. Tredennick's counsel is telling me not to have him read them in. And RJR's counsel is saying they need to be read in.

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MS. RIVERA-SANCHEZ: No. No --

MR. STERN: No, we said --

MS. RIVERA-SANCHEZ: Wait. Wait. Let me just correct that. I don't know if you misunderstood me. Absolutely not. I am not saying that they need to be read in at all. What I'm saying is I object very much to your reading documents into the record that the witness has never seen and then forcing him to either agree with your characterization of the document or asking him his opinions today about documents that he never saw while he was employed at Reynolds. And that, as far as I can see, in a line of questions, it's not leading anywhere. So that's my objection.

THE WITNESS: I have another objection to this kind of thing in that I feel very badgered. I really feel that you're putting the screws to me when you give me a document like this, which you could read, and then ask me if I think it is inconsistent, you know, with something that I've been telling you consistently what my belief is at the time.

So now you're all of a sudden -- I mean, you can read that, and I think you could

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walk down and pick anybody off the street -- maybe not in Santa Monica but almost -- give them that, and they would say you listened to my testimony and this document, they would answer in a certain way. And why go through it? Why do you put me through this?

BY MR. JANECEK:

Q. I'm just trying to get your opinion as to whether this is consistent with the philosophy that you have testified about at Reynolds.

MS. RIVERA-SANCHEZ: My objection to that is that you have asked him that numerous times already, and I think you're really -- it's become outrageous that you're continuing just to hit him over and over with these documents that he's told you he's never seen, he's told you what his opinion is, he stated it consistently. I don't know where you're going with all of this.

MR. STERN: Yeah. I just want you to know, I don't think there is anything inconsistent between what Mr. Tredennick just said, what Ms. Sanchez said, what I'm saying, which is fundamentally you take a document that he hasn't seen, you then give it a spin and say, "Isn't that

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inconsistent with what you understood?" And, you know, if you want to say was it consistent or inconsistent with your understanding to market to 14 years old, or 12-year-olds or 90-year-olds, do it. But don't do it with these weird documents.

I mean, characterize them any way you want, but the bottom line is he's going to have to try to interpret stuff in context when he was -- my recollection from his dates of employment as testified to in prior depositions is -- I don't think he was an employee on July 22, 1980.

THE WITNESS: I think I came out to California in September of 1980, roughly, and I quit there in October of '79, if I remember. This is 20 years ago.

MR. STERN: So, I mean, you're just really pushing the envelope here for no apparent purpose.

BY MR. JANECEK:

Q. With all of that, do you need me to restate the question?

MR. STERN: Yeah.

THE WITNESS: What question?

BY MR. JANECEK:

Q. My question.

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A. You have a question?

Q. My question is: Having reviewed this document, is this document inconsistent or consistent with --

A. Yes.

Q. It is consistent with --

A. No, it's consistent with or inconsistent.

Q. Is this document consistent with your understanding of the RJR philosophy during your tenure at Reynolds?

MR. STERN: I'm going to object as being --

THE WITNESS: I have the same problem.

MR. STERN: -- as being vague and incomprehensible.

If the witness understands it, go answer it because then you guys are operating on some level that I don't even begin to understand. So go to it.

THE WITNESS: No. I really -- I really don't know if it is consistent or inconsistent.

BY MR. JANECEK:

Q. What does this document mean to you, having read it?

MS. RIVERA-SANCHEZ: Objection. I mean,

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again, it is just completely irrelevant. I don't know where we are going with this. We're not going to anything that is relevant in this case that could lead to admissible evidence. I don't understand the purpose of continuing to ask him what documents that he's now viewing 20 or more years after he is employed at Reynolds, what he thinks about them, as he looks at them today, why or how that could be relevant to anything in the case.

THE WITNESS: Yeah.

BY MR. JANECEK:

Q. Does this document suggest to you that Reynolds in 1980, after you'd left, was implementing activities that would reverse the declining share of under 18 smokers?

MS. RIVERA-SANCHEZ: I'm just going to object.

MR. JANECEK: You've objected so let him answer.

MS. RIVERA-SANCHEZ: Well, no. No. Because you restated the question, and I think when you restated that question, you misstated what the document says.

THE WITNESS: Well, really is hard to say.

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Would you read the last paragraph?

BY MR. JANECEK:

Q. The one that:

"Hopefully our various planned activities that will be implemented this fall will aid in some way in reducing or correcting these" --

A. That in no way says that anything is going to be done to direct marketing at the 14- to 17-year-old. It simply says that hopefully, although we recognize what is happening, we hope that what we had been doing and continue to do will help solve the situation. It does not say in any way that we have taken specific plans to market to young adults.

Q. I understand that. My only question is: Does this document suggest to you that Reynolds was taking steps to reverse its declining share of 14- to 17-year-old smokers?

A. No. And following up on what I just said, the answer is no.

Q. That's your testimony?

A. Yes.

(Tredennick Exhibit No. 11

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was marked for identification and is annexed hereto.)

BY MR. JANECEK:

Q. Mr. Tredennick, the court reporter handed you a document which has been marked as Tredennick Exhibit No. 11.

Can you take a look and see if you have seen this document before.

For the record, this document was produced in a file entitled "Youth Target," and it's entitled Project LF Potential Year One Marketing Strategy," dated October 15, 1987.

A. I haven't read it. I've scanned it.

MR. STERN: Just so we are really clear for the record, this is roughly eight years after he left the employ of Reynolds. Put another way: He was -- this document was written further, I mean, eight years after. I don't even think you were --

Were you with Reynolds for eight years? About that; right?

THE WITNESS: About that, eight or nine years.

MR. STERN: So it's about, you know, we're talking about a massive amount of time afterwards. But if you want to ask him about the

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documents, go right ahead and see where we are going to go.

Are you changing tapes?

VIDEO OPERATOR: No.

BY MR. JANECEK:

Q. So Mr. Tredennick, in the course of this speaking objection, I forgot your answer.

Did you say you had or hadn't seen this document before?

A. I have not seen this document before.

Q. Not within the last three or four years when --

A. I don't think so. This is -- it is hard to remember. I've seen so many documents in the process of the whole, the -- either documents were given to me by people who interviewed me or documents at the depositions or documents that were given to me by the law firm that I worked with for a couple of days. So it is possible I have seen it before but not to my recollection now.

Q. Now, Mr. Tredennick --

A. And this was, this document was pointed out, was produced long after I left

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Reynolds.

Q. I understand that.

Mr. Tredennick, would you take a look at the re line on this document. It's talking about a year one marketing strategy. Do you see that?

A. Uh-huh, yes.

Q. Can you take a look at the second full paragraph, the first sentence:

"Project LF is a wider circumference, non-menthol cigarette targeted at younger adult male smoker (primarily 13- to 24-year-old Marlboro smokers)."

A. Yes.

Q. In discussing a cigarette targeted at 13- to 24-year-old smokers in the context of marketing, is this consistent with your understanding of Reynolds' philosophy during your tenure at Reynolds? I understand philosophies may have changed but during your tenure; is that correct?

A. Yes, this is different from what I was accustomed to.

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Q. Based on the documents you've seen today and in the past, does it appear to you that there may have been a shift in philosophy on whether or not Reynolds wanted to attract persons younger than 18 years old?

MS. RIVERA-SANCHEZ: I'm going to object to the form. And it asks him to speculate.

MR. JANECEK: It's a yes or no, whether he does or doesn't have an opinion.

THE WITNESS: I have no opinion.

(Discussion off the record.)

(Tredennick Exhibit No. 12 was marked for identification and is annexed hereto.)

BY MR. JANECEK:

Q. The court reporter has handed you a document which has been marked as Tredennick Exhibit No. 12. It's a document entitled, or the subject is "Young Adult Market," and it's dated January 10, 1990.

Can you take a look and see if you have seen this document before.

A. Was I still alive in 1990? I think so.

MR. STERN: You must have been.

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THE WITNESS: I think, without looking much further, I was -- I have never seen this before.

BY MR. JANECEK:

Q. Were you aware that in 1990 R.J. Reynolds Tobacco Company focused its premium items and placement of cigarettes in locations, in close proximity to colleges and high schools where there are a large number of young adults frequent -- where a large number of young adults frequent the stores?

MS. RIVERA-SANCHEZ: I'm going to object to the form. I'm going to object. There is no foundation for any of those things.

MR. STERN: All they're asking for is what, whether you are aware of something in 1990. And he just stated a whole series of things, and you were either aware of them or not aware of them.

THE WITNESS: None of those was I aware of, no.

BY MR. JANECEK:

Q. You hadn't heard that?

A. No. No. And I was pretty much out of contact with Reynolds completely by then.

Q. Would it surprise you if Reynolds was placing cigarettes and promotional items in stores

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in close proximity to colleges and high schools in 1990?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: Would it surprise me? I really can't answer that. I don't know whether it would surprise me or not.

BY MR. JANECEK:

Q. You might have expected it?

A. It might have surprised me. Depends on what I saw and where it was, I might have been surprised. I may not have been surprised. Most likely is I would be completely indifferent to the -- I probably wouldn't have even noticed something like that.

Q. Can you read through the first paragraph. You don't need to read it out loud but read through this document.

A. Okay. I read it.

Q. Does the content of this document surprise you, that something that was very important, as noted at the top, is to locate stores close to colleges and high schools?

MR. STERN: I'm going to object.

THE WITNESS: No.

MS. RIVERA-SANCHEZ: Object to the

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characterization of the document.

MR. STERN: I've got to object to the document, to this whole line of questioning. What surprises me is that anyone would think that it's relevant, what an employee, a former employee 11 years out of his employment with RJR, would be or wouldn't be surprised by it. It's kind of like -- I mean, why don't we grab somebody out from the hallway and ask him whether he'd be surprised.

I don't understand why that's a relevant area of inquiry and why you have a right to basically pick his mind to whether or not -- I mean, you can bring out today's Newsweek magazine and say, "Gee, take a look at that article. Are you surprised by it?" I mean, it's an absurdity.

You know -- I mean he's already answered what he's answered to. I'm going to let you go on with this, but I think that hopefully we are near the end. We've got to be near the end, we're already in 1990, 11 years after he left. How much further are you going to go?

I think his question was whether you were surprised.

THE WITNESS: At this point nothing is surprising me anymore. It's -- I'm kidding.

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MR. STERN: Put it in the pile so it doesn't get lost. Also so I get it out of my hand; right?

MR. JANECEK: You might get surprised with a question.

MR. STERN: This is Exhibit 13, being a document dated looks like April 12, 1990?

MR. JANECEK: That's the cover memo of the document. It's April 5, 1990, but April 1990. The subject line is "Young Adult Market SIS Account Grouping."

THE WITNESS: Okay.

(Tredennick Exhibit No. 13 was marked for identification and is annexed hereto.)

BY MR. JANECEK:

Q. Have you had a chance to look at that document?

A. I don't see "young adult market" anyplace.

MR. STERN: On the next page.

BY MR. JANECEK:

Q. On the next page.

A. Oh, okay.

Do you want me to read this?

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Q. The first question is: Have you seen this document before?

A. No.

Q. This is similar to the last document so if you'd just take a look at the Paragraph 1. Do you see that on the left:

"All package action calls located across from, adjacent to, or in the general vicinity of high schools or college campuses."

A. I can read it, yes.

Q. Seeing two of these types of documents discussing placement near high schools, does that change your testimony?

MS. RIVERA-SANCHEZ: Objection, argumentative.

THE WITNESS: No, I --

MR. STERN: You can answer the question.

THE WITNESS: No.

MR. JANECEK: You can put that one back.

(Tredennick Exhibit No. 14 was marked for identification and is annexed hereto.)

MR. STERN: Exhibit 14. Hold on. Hold on a

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second.

BY MR. JANECEK:

Q. While you're taking a look at that document, Mr. Tredennick, the court reporter has marked this document entitled "Research Planning Memorandum on the Nature of the Tobacco Business and the Crucial Role of Nicotine Therein" as Tredennick Exhibit No. 14.

A. Is there a date on this?

MS. RIVERA-SANCHEZ: I think on the last page.

MR. JANECEK: Date on the last page is April 14, 1972.

THE WITNESS: Okay.

BY MR. JANECEK:

Q. Have you seen this document before?

A. I'm not entirely certain, but I believe I have seen it before.

Q. Do you know where you have seen this document before?

A. In the past -- in the course of the past three years, it has been shown to me by somebody.

Q. Do you know if during your tenure at R.J. Reynolds Tobacco Company, RJR had the ability

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to control nicotine levels in its cigarettes?

A. Yes.

Q. Yes, you know?

A. Yes, I know.

Q. Did they have the ability to control nicotine levels in cigarettes?

A. I can't be absolutely sure. Would you like me to --

Q. Yes.

A. -- tell you what I think?

The control of nicotine levels could be effected through the tobacco-growing process. I don't believe they could -- I don't believe that Reynolds could add nicotine in other ways. That's my belief, as I recall it.

Q. So you don't believe that nicotine could have been manipulated during the manufacture or design of the cigarette, just on the growing part of it, the growing of the tobacco?

A. The nicotine level, the nicotine content, I don't believe could be manipulated in the processing of it.

Q. Simply on growing the tobacco leaf?

A. Simply on -- it needed to be built into the natural product. That's my

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understanding.

Q. Can you take a look at the page which is -- this one is also not numbered -- RJN 021035.

MR. STERN: That's the first page is 035.

THE WITNESS: Okay.

BY MR. JANECEK:

Q. And --

A. You want me to read the paragraph or what?

Q. Well, what I'm -- you can read the paragraph, but what I'm looking at is the last, well, it's the sentence that begins:

Thus a tobacco product is, in essence, a vehicle for delivery of nicotine.

It's about the last two thirds of the --

MR. STERN: Oh, here it is.

THE WITNESS: Oh, I see. Okay.

BY MR. JANECEK:

Q. Read the end of that paragraph.

A. Okay. I've read it.

Q. Having read that, those couple of sentences, does that alter your understanding of

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whether or not nicotine levels could be manipulated based on design manufacture?

A. No, I --

MS. RIVERA-SANCHEZ: Object to the form.

You can answer.

THE WITNESS: No, this does not change my opinion that it needed to be -- the nicotine level needed to be, come from the growing of the leaf, the blend, so to speak.

BY MR. JANECEK:

Q. Mr. Tredennick, if you could turn to Page RJN 021037.

A. I have it.

Q. If you could read just to yourself the first full paragraph that runs onto the next page.

MR. STERN: Starts with "Before proceeding too far"?

MR. JANECEK: Correct.

THE WITNESS: Okay.

MR. STERN: Turn to the next page.

THE WITNESS: Okay.

BY MR. JANECEK:

Q. Mr. Tredennick, do you agree with the description of why someone begins to smoke that is

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set forth in that paragraph?

A. No.

Q. How does that description differ from what you concluded as to why people begin to smoke? In particular, I'm looking at the paragraph:

"Where you start, appears to start to smoke for purely psychological reasons to emulate a valued image, to conform, to experiment, to defy."

Did you see that paragraph?

MR. STERN: You mean that sentence?

MR. JANECEK: That sentence.

MR. STERN: You want him to sort of focus on that sentence and ask him some questions about it?

BY MR. JANECEK:

Q. In my layman's terms, it seems to be saying the same thing you were saying in your 1974 memorandum.

A. Yes.

Q. I'm just asking you to explain the differences if you believe there are some

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differences.

A. No. I was responding to the entire paragraph, going into the next page.

Q. I'm sorry?

A. But essentially those are the primary reasons people start to smoke.

MR. STERN: Are we done with that exhibit? So he should put it back into the pile there and go to the next one.

MR. JANECEK: Yes.

(Tredennick Exhibit No. 15 was marked for identification and is annexed hereto.)

BY MR. JANECEK:

Q. Mr. Tredennick, the court reporter has handed you a document which we've had marked as Tredennick Exhibit No. 15. This document is entitled "Conference Report." It's on the letterhead of Tatham-Laird, L A I R D, & Kudner, K U D N E R, Advertising, and it's dated June 5, 1974.

A. I have it.

Q. Have you seen this document before?

A. Not to my recollection.

Q. Do you know who Tatham-Laird Kudner

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Inc. Advertising is?

A. I know it was an advertising agency. And I don't recall working with them, though.

Q. Do you know if anyone at Reynolds worked with Tatham-Laird?

A. Not to my knowledge. Although quite a few agencies in the period I was there, and there was some changing of agencies so very likely this may have been one of those.

Q. Mr. Tredennick, if I could have you go through a couple of names. Do you see the "persons present" line?

A. Yes.

Q. Do you know who Mr. or Mrs. Blevins is? B L E V I N S?

A. Yes, I do.

Q. Who is Mr. or Mrs. Blevins?

A. Mr. Ray Blevins, I believe, was his first name. He was the marketing research, he was the director of marketing research just before I joined the tobacco company.

Q. What about the last name Lloyd, L L O Y D?

A. I am familiar with that name. It's, Lloyd, it's vague, though, but I think he may

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have been one of the brand managers.

Q. Do you know the name Teague, T E A --

A. Claude Teague was -- he was the one we went through one of his memos ad nauseam earlier this morning. And he had something to do with product development, research, head of research.

Q. What about White?

A. I don't know the name White.

Q. And Stowe?

A. I don't know that name.

Q. Mr. Tredennick, if you could take a look at the paragraph under A, types of cigarettes, through 1. Just read that to yourself.

A. Okay. Okay.

Q. Were you aware that in 1974 Reynolds, R.J. Reynolds Tobacco was exploring a cigarette design for beginning smokers?

A. No.

MR. JANECEK: You can put that one down.

MR. STERN: Done with that?

MR. JANECEK: Yes.

MR. STERN: Okay.

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(Tredennick Exhibit No. 16 was marked for identification and is annexed hereto.)

BY MR. JANECEK:

Q. Mr. Tredennick, the court reporter handed you a document which has been marked as Tredennick Exhibit No. 16. It is an undated, actually it is -- the closest date is 1978 -- discussing a 1978 program. And the project is 1250 smoking satisfaction and tar/nicotine control.

A. Uh-huh.

Q. Have you seen this document before?

A. No. At least not the front. No.

Q. Mr. Tredennick, earlier you testified that it was your understanding that the way that Reynolds manipulated nicotine content was solely through the blending?

A. Yes.

MS. RIVERA-SANCHEZ: Object. Object to the form. He didn't use the word "manipulated."

THE WITNESS: I didn't use it.

MS. RIVERA-SANCHEZ: He never did.

THE WITNESS: That's why I laughed.

MS. RIVERA-SANCHEZ: You did. That's not

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what he testified.

BY MR. JANECEK:

Q. Is it your understanding that R.J. Reynolds Tobacco could manipulate nicotine content through blending of leaf?

A. No. They -- the nicotine content comes from the blend of tobacco that is grown. And the nicotine content pretty much depends on where and how the tobacco is grown. Some with higher nicotine content leaves and there are lower, and they can be blended together to deliver a varying amount of nicotine.

Q. And so Reynolds could manipulate the amount of nicotine in cigarettes by, depend on which leaf blends it used?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: And the amount. Maybe the word manipulate is somehow a loaded word. They could control and vary, yeah. Manipulate would not be my word. It would be -- sounds devious, doesn't it? Manipulate.

BY MR. JANECEK:

Q. If you can take a look at the second page of the document. It's not paginated. The only numbers are on the side. It's 501825040.

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I'm sorry, it's the third page.

MR. STERN: The third page of the document.

THE WITNESS: Yes.

BY MR. JANECEK:

Q. Can you just take a look at the specific under -- under the section "Specific Undertakings for 1978"?

A. Okay. No. 2?

Q. It's actually 1 through 5, just to take a look at them.

A. Okay. I have looked at all five. I haven't read them, though. Do you want me to read them?

Q. Read through them.

A. Read through all five?

Q. Not out loud.

A. I understand. Okay. I read them.

Q. Now, it is discussing influencing nicotine delivery and efficiency. Is that a different idea than how you understand the term "control" or "vary nicotine content"? Is that a different concept?

A. I believe so. I'm not sure exactly what you mean, but I --

Q. I guess my question is: Were you

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aware if R.J. Reynolds Tobacco Company could influence the nicotine delivery efficiency of its cigarettes?

A. Oh, that's --

Q. Well, that's different than --

A. My understanding it's an entirely different question. Delivery and the nicotine content are two separate things is my understanding.

Q. And were you aware that R.J. Reynolds Tobacco Company could influence the nicotine delivery efficiency?

MS. RIVERA-SANCHEZ: Object to the form.

THE WITNESS: No. Would you like to ask -- maybe you if ask another question, I might -- you want me to elaborate a little bit or?

BY MR. JANECEK:

Q. Well, the question is just if you you're aware of that.

A. Okay.

Q. Were you aware that Reynolds could alter its smoke pH to free bound nicotine?

MS. RIVERA-SANCHEZ: Object to the form. Again, you're characterizing, I guess, what's in this document in a way. Then forcing him to

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either to agree or to disagree with your characterization. Sounds like your characterization is, in fact, fact, and it's not.

MR. STERN: There is also a secondary problem. He's already testified he was involved in marketing research. It almost sounds to me like you're asking him chemistry questions, and I'm not sure that he has a competence to answer those chemistry questions. You can explore that. If he does, you're welcome to do it, but I just think you're going, you know, kind of -- I mean, you've got a guy here and you're going to ask him every question that you've got on the list whether or not he has it in his area of expertise, whether or not it is, was a relevant time period, but kind of get qualification for him.

MR. JANECEK: I'm just asking awareness questions, whether -- he could be the bus driver, if he was aware that this as going on at Reynolds, I want to know if he was aware of it.

MR. STERN: You can ask whether he was aware of something. Sure.

MS. RIVERA-SANCHEZ: My objection stands as to the characterization of what was going on. There is no foundation for any of that.

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But go ahead. You can answer.

THE WITNESS: I was aware that the nicotine, the tobacco in the processing could -- ammonia in some way could be used in order to increase the amount of the nicotine that was in what they called free form, the free form being that form which could actually have a physiological effect on the body. That is about the extent of my knowledge. It had nothing to do with the amount of nicotine in the product itself that came from the tobacco. The processing, the ammonia treatment could change the -- what they called, what I guess you call the delivery -- I'm not sure if that term was used then or not -- but the proportion of the nicotine that was available to be absorbed by the body.

MR. STERN: Put that exhibit into the pile because you're going to get another one.

(Tredennick Exhibit No. 17 was marked for identification and is annexed hereto.)

BY MR. JANECEK:

Q. Mr. Tredennick, the court reporter has handed you a document which has been marked as Tredennick Exhibit No. 17. It is a memorandum

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dated October 28, 1976. Subject is Philip Morris, Inc. Not Interested in Tobacco Substitutes.

Do you recall seeing this document before?

A. No, I don't.

Q. Did you note down in the cc line on the right-hand column that your name appears to be there?

A. Yes, I did.

Q. That is, in fact, your name?

A. Yes.

Q. Have you had a chance to read that short paragraph?

A. No. You want me to?

Q. Yes.

A. I read it.

Q. Does that refresh your recollection as to whether you recall seeing this document before?

A. No. I'm pretty sure I had not seen this document.

Q. Have you heard anyone at Reynolds make similar statements? And when I'm saying similar statements, I will specifically refer to the reason why people smoke -- is nicotine and the

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kick people get out of smoking?

MS. RIVERA-SANCHEZ: Object to form.

THE WITNESS: Yes, I have.

BY MR. JANECEK:

Q. Who have you heard discuss that idea?

A. Only one person, to the best of my knowledge, as I can recall, and that was a laboratory technician at the plant, actually one of the chemists, I believe. It was actually the manufacturing department, and he mentioned to me that the nicotine was probably the ingredient that provided the greatest proportion of the pleasure or rationale for smoking.

Q. Do you know who that is?

A. That's about the only -- I don't have the vaguest idea. I don't think -- I don't think I even knew when I talked to him. It was, you know, just an "appasant" conversation.

Q. You can put that one --

A. Thank you. I'm getting slow on the pickup here.

(Tredennick Exhibit No. 18 was marked for identification and is annexed hereto.)

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BY MR. JANECEK:

Q. Mr. Tredennick, the court reporter has handed you a document which has been marked as Tredennick Exhibit No. 18. It's entitled "Implications and Activities Arising From Correlation of Smoke pH with Nicotine Impact, Other Smoke Qualities, and Cigarette Sales."

Have you seen this document before today?

A. Let me glance inside. I'm reasonably sure I have not seen it.

Q. Mr. Tredennick, if you could turn to page -- this one does have a numbered Page 2 -- and read through that last paragraph under Roman IV, "Smoke pH and Other Smoke Qualities."

A. I read it.

Q. When you were testifying a few moments ago about the addition of ammonia, is what you read consistent with what you were explaining to me about how pH affects the deliverable -- I can't remember your words -- but the availability of nicotine to the smoker?

A. Free nicotine I think was --

MS. RIVERA-SANCHEZ: I'm going to -- just give me one second -- I'm going to object. His

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testimony is what it is. The document says what it says. And you can compare the two. I don't understand why, where the question is going.

BY MR. JANECEK:

Q. Can you repeat your answer. She talked over your answer.

MS. RIVERA-SANCHEZ: I apologize.

THE WITNESS: Yeah. Roughly I think that's what I was referring to.

BY MR. JANECEK:

Q. Let's see if I can find an author to see if this is the individual that you heard the nicotine kick from. This is from Claude E. Teague.

Was Claude E. Teague the chemist you were referring to earlier?

A. No.

Q. Mr. Tredennick, you earlier testified you didn't believe that smoking was addictive; is that correct?

A. Yes.

Q. Do you know if there were employees at RJR who did believe that smoking was addictive?

A. Not to my knowledge.

(Tredennick Exhibit No. 19

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ATTORNEY'S NOTES

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